

By Mr. LAMAR: Papers to accompany bill for the relief of Brian B. Tulley—to the Committee on Pensions.

By Mr. LAWRENCE: Petition of citizens of Greenfield, Mass., favoring a law taking the power from the State courts and placing it in Federal courts relative to polygamy—to the Committee on the Judiciary.

By Mr. LILLEY: Petition of Woman's Christian Temperance Union of Mystic, Conn., against the Proctor bill for the repeal of the anticanteen law—to the Committee on Alcoholic Liquor Traffic.

Also, petition of the city council of Fort Smith, Ark., favoring annexation of the Cherokee and Choctaw nations to the State of Arkansas—to the Committee on Indian Affairs.

Also, papers to accompany bill for relief of Mary A. Paul—to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the Merchants' Association of New York, favoring legislation regulating towing in New York Harbor—to the Committee on Commerce.

Also, petition of the Merchants' Association of New York, favoring a law reducing tariff on Philippine products to this country—to the Committee on Ways and Means.

By Mr. McCALL: Papers to accompany bill H. R. 16690, for relief of Mrs. Louisa J. Arey—to the Committee on Naval Affairs.

By Mr. MACON: Papers to accompany bill for relief of Daniel Hays by increase of pension—to the Committee on Pensions.

By Mr. MAHON: Petition of George W. Hirson et al., of the Patriotic Order of Sons of America, for legislation restricting immigration—to the Committee on Immigration and Naturalization.

Also, petition of Wilson Rhoads et al., for legislation restricting immigration—to the Committee on Immigration and Naturalization.

By Mr. MOON: Petition of the Stone Cutters' Association of North America, against law appropriating money for substitution of granite for sandstone in the superstructure in Government buildings in Cleveland, Ohio—to the Committee on Public Buildings and Grounds.

Also, papers to accompany bill relative to the claim of estate of Lewis Patterson—to the Committee on War Claims.

By Mr. NEVIN: Petition of Rev. H. Johnson et al., asking legislation to protect the proposed States of Oklahoma and Arizona against intoxicants—to the Committee on Alcoholic Liquor Traffic.

By Mr. OLMSTED: Petition of members of the faculty of Dickinson College, Carlisle, Pa., calling attention to resolutions of the Mohonk Conference in regard to the exclusion of intoxicating liquors from Indian territories—to the Committee on Alcoholic Liquor Traffic.

By Mr. PATTERSON of Pennsylvania: Paper to accompany bill for relief of Theodore Titus—to the Committee on Invalid Pensions.

Also, petition of Washington Camp, No. 262, Patriotic Order of Sons of America, of Hegins, Pa., praying for restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Washington Camp, No. 76, Patriotic Order of Sons of America, of Tremont, Pa., asking greater restriction in immigration—to the Committee on Immigration and Naturalization.

Also, petition of Washington Camp, No. 247, Patriotic Order of Sons of America, of Landingville, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. RANDELL of Louisiana: Papers to accompany bill for relief of heirs of Julia M. Clark, of Catahoula Parish, La.—to the Committee on War Claims.

Also, papers to accompany bill for relief of heirs of Mary A. Meredith, of Caldwell Parish, La.—to the Committee on War Claims.

Also, papers to accompany bill for relief of heirs of John R. Temple, of Ouachita Parish, La.—to the Committee on War Claims.

By Mr. ROBINSON: Papers to accompany bill for relief of Eugene King—to the Committee on War Claims.

By Mr. RYAN: Petition of the Merchants' Association of New York, urging legislation to regulate towing in the harbor of New York—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Merchants' Association of New York, against freight rebates—to the Committee on Interstate and Foreign Commerce.

By Mr. SIBLEY: Petition of New Vernon Grange, No. 608,

of Mercer County, Pa., against repeal of the Grout Act—to the Committee on Agriculture.

By Mr. SLAYDEN: Petition of R. F. Casadine et al., favoring legislation to increase power of Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Pennsylvania: Petition of citizens of Jefferson County, Pa., favoring a law restricting immigration—to the Committee on Immigration and Naturalization.

By Mr. SULLIVAN: Petition of Ford B. Strough et al., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. THOMAS of Iowa: Petition of citizens of the Eleventh Congressional district of Iowa, favoring the Cooper-Quarles bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Milford, Iowa, favoring legislation against the sale of intoxicating liquors in Indian Territory—to the Committee on Alcoholic Liquor Traffic.

By Mr. WILLIAMS of Illinois: Paper to accompany bill for relief of David H. Urley—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of William Clark—to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of Emery Monty—to the Committee on Military Affairs.

Also, papers to accompany bill for relief of John E. Clark—to the Committee on Military Affairs.

Also, papers to accompany bill for relief of Wily B. Chamness—to the Committee on Military Affairs.

Also, papers to accompany claim for relief of William Clark—to the Committee on Pensions.

By Mr. WILSON of New York: Petition of Carriage Builders' National Association, favoring legislation empowering Interstate Commerce Commission to discriminate on freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG: Petition for the relief of George Nottlie—to the Committee on War Claims.

## SENATE.

WEDNESDAY, January 11, 1905.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

NAMING OF PRESIDING OFFICER.

Mr. PERKINS called the Senate to order, and the Secretary read the following communication:

PRESIDENT PRO TEMPORE, UNITED STATES SENATE.

To the United States Senate:

I hereby appoint GEORGE C. PERKINS, Senator from California, to perform the duties of the chair during my absence.

WM. P. FRYE,  
President pro tempore.

JANUARY 11.

Mr. PERKINS thereupon took the chair as Presiding Officer.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON, and by unanimous consent, the further reading was dispensed with.

REPORT OF AMERICAN NATIONAL RED CROSS.

The PRESIDING OFFICER (Mr. PERKINS) laid before the Senate the annual report of the American National Red Cross for the year ended December 31, 1904; which was referred to the Committee on Foreign Relations, and ordered to be printed.

CENTRAL POWER STATION.

The PRESIDING OFFICER laid before the Senate a communication from the Superintendent Library Building and Grounds, transmitting, pursuant to law, a report with preliminary plans and estimates of cost for the location, construction, and equipment of a central power station for the existing and projected buildings on the Mall, in the vicinity of the White House, etc.; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

FRENCH SPOILATION CLAIMS.

The PRESIDING OFFICER laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel ship *Jane*, James Barron, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel schooner *Amelia*, Timothy

Hall, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed with an amendment to the concurrent resolution providing for the printing for the use of the Department of Commerce and Labor of 10,000 copies of the report of the Commissioner of Corporations, covering the period from the organization of the Bureau to June 30, 1904, etc.; in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H. R. 16987) to provide for holding terms of United States courts at Greenville, Miss.; in which it requested the concurrence of the Senate.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (S. R. 84) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President-elect on March 4, 1905, etc.; and it was thereupon signed by the Presiding Officer.

#### PETITIONS AND MEMORIALS.

Mr. NELSON presented a memorial of the Commercial Club, of St. Paul, Minn., remonstrating against the adoption of any amendment to the so-called "Nelson Act," relating to the Red Lake Indian Reservation in the State of Minnesota; which was referred to the Committee on Public Lands.

Mr. FAIRBANKS presented a petition of the Commercial Club, of Muncie, Ind., praying for the enactment of legislation to provide for the holding of terms of the United States courts in that city; which was referred to the Committee on the Judiciary.

He also presented a petition of The Nordyke & Marmon Company, of Indianapolis, Ind., praying for the enactment of legislation providing for the better protection of trade-marks; which was referred to the Committee on Patents.

He also presented a memorial of Local Union No. 159, Cigar Makers' International Union, of Marion, Ind., remonstrating against the reduction of the duty on cigars imported from the Philippine Islands; which was referred to the Committee on Finance.

He also presented petitions of the Indianapolis Fruit and Produce Commission Merchants' Exchange; of Washington Division, No. 339, Order of Brotherhood of Railway Conductors, of Washington, and of Local Division No. 249, Brotherhood of Locomotive Engineers, of Elkhart, all in the State of Indiana, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

He also presented a petition of the Old Soldiers' Republican Club, of Vanderburg County, Ind., praying for the enactment of legislation providing for equalizing the representation of different States in Congress; which was referred to the Committee on the Census.

Mr. BEVERIDGE presented a petition of sundry citizens of Hookey, Okla., praying for the passage of the statehood bill; which was ordered to lie on the table.

He also presented a petition of the Nordyke & Marmon Company, of Indianapolis, Ind., praying for the enactment of legislation authorizing the registration of trade-marks; which was referred to the Committee on Patents.

He also presented a petition of sundry citizens of Elkhart, Ind., praying for the enactment of legislation providing for the holding of terms of Federal court at Muncie, Ind.; which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Lafayette, Ind., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of Local Division No. 248, Brotherhood of Locomotive Engineers, of Elkhart, Ind., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented petitions of sundry citizens of Randolph County, Ind.; of the Indianola Synod of the Cumberland Presbyterian Church, of Wagoner, Ind. T., and of sundry citizens of Sulphur and Lebanon, Ind. T., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Indian Territory when admitted to statehood; which were ordered to lie on the table.

Mr. PROCTOR presented a memorial of the congregation of the Universalist Church of Woodstock, Vt., and the memorial of Elbert O. Smith and 30 other citizens of Willsboro,

N. Y., remonstrating against the repeal of the present anticaneen law; which was referred to the Committee on Military Affairs.

Mr. KEAN presented memorials of the congregation of the Methodist Episcopal Church of Succasunna; of sundry citizens of Summit, Collingswood, Newark, Dunellen, Salem, Paterson, Succasunna, Washington, Greenwich, Roseville, and Lakewood; of the Woman's Christian Temperance Union of Collingswood, of the Woman's Christian Temperance Union of Pensauken, of the Woman's Christian Temperance Union of Bloomfield, and of the Woman's Christian Temperance Union of Hancocks Bridge, all in the State of New Jersey, remonstrating against the repeal of the present anticaneen law; which were referred to the Committee on Military Affairs.

Mr. KNOX presented petitions of the Patriotic Order of Sons of America of Broadtop, Curwensville, Duncannon, Landingville, Hanover, and Fishing Creek, all in the State of Pennsylvania, praying for the enactment of legislation to restrict the immigration of aliens into the United States; which were referred to the Committee on Immigration.

He also presented petitions of the Ministerial Association of the Presbyteries of Pittsburg and Allegheny, of the Ministerial Association of the Baptist Churches of Pittsburg, of the Ministerial Union of Philadelphia, of the congregation of the First Presbyterian Church of Johnstown, of the General Assembly's Permanent Committee on Temperance of the Presbyterian Church of Pittsburg, and of sundry citizens of Pittsburg, Darby, Johnstown, Philadelphia, and Allentown, all in the State of Pennsylvania, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a memorial of sundry citizens of Pittsburg, Pa., and memorials of sundry citizens of McSherrystown, Pa., remonstrating against any reduction in the tariff on tobacco and cigars imported from the Philippine Islands; which were referred to the Committee on Finance.

He also presented a petition of the Pennsylvania Dairy Union, praying for the enactment of legislation providing for an increase in the income of the agricultural experiment stations; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the International Pure Food Congress of Lexington, Ky., and a petition of the Pennsylvania Dairy Union, praying for the passage of the so-called "pure-food bill;" which were ordered to lie on the table.

Mr. ANKENY (for Mr. FOSTER of Washington) presented a petition of the Retail Grocers' Association of Tacoma, Wash., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

Mr. GORMAN presented resolutions adopted at a meeting of sundry citizens of Baltimore, Md., held in McCoy Hall, Johns Hopkins University, favoring the ratification of international arbitration treaties; which were referred to the Committee on Foreign Relations.

Mr. SPOONER presented a memorial of the congregations of the Baptist, Presbyterian, and Methodist Episcopal churches of Lodi, Wis., remonstrating against the repeal of the present anticaneen law, and praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

Mr. COCKRELL. To accompany the bill (S. 5993) granting a pension to Mary E. Cash, I present the argument of James E. Twitchel, of Carthage, Mo., favoring the passage of the bill. I move that the paper be referred to the Committee on Pensions.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (H. R. 16570) to amend an act entitled "An act to authorize the construction of a bridge across the Tennessee River in Marion County, Tenn.," approved May 20, 1902, reported it without amendment.

Mr. MARTIN, from the Committee on Claims, to whom was referred the bill (H. R. 11178) for the relief of Miss Lelia G. Cayce, reported it without amendment.

Mr. WARREN, from the Committee on Claims, to whom was referred the bill (H. R. 3619) for the relief of David V. Howell, reported it without amendment, and submitted a report thereon.

Mr. HANSBROUGH, from the Committee on Public Lands, to whom was referred the bill (S. 6314) for the relief of certain receivers of public moneys, acting as special disbursing agents, in the matter of amounts expended by them for per diem fees and mileage of witnesses in hearings, which amounts have not



been credited by the accounting officers of the Treasury Department in the settlement of their accounts, reported it without amendment, and submitted a report thereon.

#### OUACHITA RIVER BRIDGE, LOUISIANA.

Mr. BERRY. Two or three days ago the senior Senator from Louisiana [Mr. McENERY] called up and had passed Senate bill 6019, to authorize the parish of Caldwell, La., to construct a bridge across the Ouachita River. Since that time the House has passed a precisely similar bill. From the Committee on Commerce I report back favorably, without amendment, the House bill and ask for its present consideration. It is important that the bill should pass at an early day, and it is precisely similar to one which has already passed the Senate.

The bill (H. R. 15810) to authorize Caldwell Parish, La., to construct a bridge across the Ouachita River was read and considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BERRY. I move that Senate bill 6019 be indefinitely postponed.

The PRESIDING OFFICER. Senate bill 6019 will be recalled from the House of Representatives and indefinitely postponed, if there be no objection.

#### PRINTING AND DISTRIBUTION OF DOCUMENTS.

Mr. PLATT of New York. I ask for the present consideration of the bill (H. R. 15225) to amend the act relating to the printing and distribution of public documents, and for other purposes.

The PRESIDING OFFICER. The bill will be read for the information of the Senate.

The Secretary proceeded to read the bill, which had been reported from the Committee on Printing, with amendments.

Mr. HALE. That is a very important bill. I do not know but that it is all right, but it affects our convenience very largely about documents, and I ask that it may go over and be printed.

Mr. PLATT of New York. It has been printed and is before the Senate now.

Mr. HALE. I ask that it may go over in order that we may examine it. I have had no opportunity to look at it. I presume it is all right.

The PRESIDING OFFICER. Objection being made to the present consideration of the bill, it will go over.

#### ESTATE OF HENRY H. SIBLEY.

Mr. MARTIN, from the Committee on Claims, to whom was referred the bill (S. 743) for the relief of the personal representatives of Henry H. Sibley, deceased, reported the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the bill (S. 743) entitled "A bill for the relief of the personal representatives of Henry H. Sibley, deceased," now pending in the Senate, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887, and generally known as the "Tucker Act." And the said court shall proceed with the same in accordance with the provisions of such act and report to the Senate in accordance therewith.

#### W. W. MONTAGUE & CO.

Mr. STEWART. I am directed by the Committee on Claims, to whom was referred the bill (S. 6270) directing the issue of a check in lieu of a lost check drawn in favor of W. W. Montague & Co., of San Francisco, Cal., to report it favorably without amendment, and I submit a report thereon. This is a bill for the reissue of a lost check, and it is recommended by the Treasury Department. It is a mere formal matter, and I ask for its present consideration.

The Secretary read the bill, as follows:

*Be it enacted, etc.*, That C. A. Devol, major and quartermaster, United States Army, be, and he is hereby, instructed to issue a duplicate of an original check issued by him on the 2d day of February, 1904, No. 156017, upon the assistant treasurer of the United States at San Francisco, in favor of W. W. Montague & Co., of San Francisco, Cal., for the sum of \$2,614.46, under such regulations in regard to its issue and payment as have been prescribed by the Secretary of the Treasury for the issue of duplicate checks under the provisions of section 3646, Revised Statutes of the United States.

Mr. ALLISON. I ask that the letter of the Secretary of the Treasury may be read.

The PRESIDING OFFICER. The Secretary will read the letter from the Secretary of the Treasury, which accompanies the report of the committee.

The Secretary read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, January 6, 1905.

Hon. W. M. STEWART,  
Committee on Claims, United States Senate.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant inclosing S. 6270, being a bill directing the issue of a check in lieu of lost check No. 156017, drawn February 2, 1904, by

C. A. Devol, major and quartermaster, United States Army, upon the assistant treasurer of the United States at San Francisco, Cal., in favor of W. W. Montague & Co., of San Francisco, Cal., for \$2,614.46, under such regulations in regard to its issue and payment as have been prescribed by the Secretary of the Treasury for the issue of duplicate checks under the provisions of section 3646, Revised Statutes of the United States, stating that said bill had been referred to you as a subcommittee for examination and report by the Committee on Claims, and requesting to be furnished with all of the facts in the case, together with a recommendation to enable you to present the bill to the committee at its meeting on Wednesday next.

In reply I have to inform you that Major Devol, having advised this office of the issue and loss of the above-mentioned check, he was informed that section 3646, Revised Statutes of the United States, authorizes the issue of duplicate checks drawn only for \$2,500 or less, and that it would be necessary for the party in interest to apply to Congress for relief.

The bill is herewith returned with the information that it appears to be meritorious, correct in form, and similar to other bills heretofore enacted into law for a like purpose.

Respectfully,

L. M. SHAW, Secretary.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### NEW HAMPSHIRE STATE CLAIMS.

Mr. PROCTOR. I move that the bill (S. 3192) for the relief of the State of New Hampshire, be recommitted to the Committee on Military Affairs.

The motion was agreed to.

Mr. PROCTOR subsequently, from the Committee on Military Affairs, reported the foregoing bill and asked that the committee be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

#### BILLS INTRODUCED.

Mr. BEVERIDGE (for Mr. KNOX) introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6491) granting a pension to Clara F. Leslie;

A bill (S. 6492) granting an increase of pension to Joseph Howe; and

A bill (S. 6493) granting a pension to Ella J. Crosse.

Mr. McENERY introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 6494) for the relief of the estate of Louis C. De Blanc, deceased;

A bill (S. 6495) for the relief of Bennett Lilly;

A bill (S. 6496) for the relief of the estate of William Griffith, deceased;

A bill (S. 6497) for the relief of the estate of Joseph Gradenigo, deceased;

A bill (S. 6498) for the relief of Emile Honore;

A bill (S. 6499) for the relief of Floriment Izard;

A bill (S. 6500) for the relief of Francois Jefferson;

A bill (S. 6501) for the relief of the estate of Francois La-glaize, deceased;

A bill (S. 6502) for the relief of the estate of Morty Lynch, deceased;

A bill (S. 6503) for the relief of the estate of Jean Louis Malvean, deceased;

A bill (S. 6504) for the relief of the estate of Mary A. Meredith, deceased;

A bill (S. 6505) for the relief of Mrs. Lucy Moore;

A bill (S. 6506) for the relief of the estate of Francois Meillon, deceased;

A bill (S. 6507) for the relief of the estate of Louis Malvean, deceased;

A bill (S. 6508) for the relief of Alonzo L. Boyer; and

A bill (S. 6509) for the relief of the estate of Emile Lambert, deceased.

Mr. CULLOM introduced a bill (S. 6510) for the relief of Capt. Frank D. Ely; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 6511) granting an increase of pension to George W. Chrysip; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HOPKINS introduced a bill (S. 6512) granting an increase of pension to James Buggie; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GALLINGER introduced a bill (S. 6513) for the widening of a section of Columbia road east of Sixteenth street; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 6514) for the relief of the

Church of Our Redeemer, Washington, D. C.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. ANKENY introduced a bill (S. 6515) granting an increase of pension to George Murphy; which was read twice by its title, and referred to the Committee on Pensions.

Mr. KEARNS introduced a bill (S. 6516) granting an increase of pension to Charles R. Berry; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6517) granting an increase of pension to George Jagers; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ELKINS (by request) introduced a bill (S. 6518) for the relief of J. V. Millsbaugh; which was read twice by its title, and referred to the Committee on Claims.

He also (by request) introduced a bill (S. 6519) for the relief of Parker Burnham; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6520) granting a pension to Robert Hedrick; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6521) granting an increase of pension to Perry Gatewood; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. NELSON introduced a bill (S. 6522) to enable independent school district No. 12, Roseau County, Minn., to purchase certain lands; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CLAY introduced a bill (S. 6523) for the relief of the vestry of the Church of the Messiah, Protestant Episcopal Church, of St. Marys, Ga., successor to Christ Episcopal Church of the same place; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. SPOONER (for Mr. QUARLES) introduced a bill (S. 6524) granting an increase of pension to Charles Conine; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GORMAN introduced a bill (S. 6525) for the relief of Herbert O. Dunn; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6526) granting an increase of pension to Stephen A. Cox; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6527) granting an increase of pension to Sarah L. Bonner; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. PLATT of Connecticut introduced a bill (S. 6528) granting an increase of pension to Ellsworth D. S. Goodyear; which was read twice by its title, and referred to the Committee on Pensions.

#### AMENDMENT TO STATEHOOD BILL.

Mr. LONG submitted an amendment intended to be proposed by him to the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States; which was ordered to lie on the table, and be printed.

#### AMENDMENTS TO APPROPRIATION BILLS.

Mr. FAIRBANKS submitted an amendment providing for the printing by the Commission to Revise the Criminal and Penal Laws of the United States of the various titles of the general and permanent laws of the United States as fast as they may be revised, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. COCKRELL submitted an amendment proposing to appropriate \$250,000 from the trust or invested funds of the Chickasaw tribe now in the Treasury of the United States belonging to said tribe for the immediate payment of all the outstanding school warrants of said tribe, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. NELSON submitted an amendment proposing to appropriate \$4,926.67 to compensate the owners of the Norwegian steamship *Nicaragua* for damage by reason of the rescue of an American citizen, John McCafferty, etc., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Claims, and ordered to be printed.

#### CASES BEFORE INTERSTATE COMMERCE COMMISSION.

Mr. ELKINS. I offer a resolution and ask for its immediate consideration.

The resolution was read, as follows:

*Resolved*, That the Interstate Commerce Commission be, and hereby is, directed to furnish to the Senate, as soon as practicable, the following facts and information:

First. The number of complaints of every sort and description which have been made to it against railroad companies since the organization of the Commission, the number of such complaints which have been disposed of informally by the Commission without any formal hearing and determination, and the number of such complaints which have come to a formal hearing and determination by the Commission.

Second. The total number of cases heard and determined by the Commission since its organization which have been appealed to the courts, the total number of such cases in which the decisions of the Commission have been sustained, and the total number of such cases in which the decisions of the Commission have been reversed by the courts.

Third. The total number of complaints as to excessive or exorbitant rates which have been settled by the Commission without any formal hearing, the total number of cases of exorbitant or excessive rates which have been settled by the Commission on formal hearing and decision, and the total number of such cases which have been appealed to the courts; also the total number of case of exorbitant rates in which the decisions of the Commission have been sustained by the courts, and the total number of such cases in which the decisions of the Commission have been reversed.

Fourth. The total number of complaints as to unjust discrimination which have been settled by the Commission without any formal hearing, the total number of cases of unjust discrimination which have been settled by the Commission on formal hearing and decision, and the total number of such cases which have been appealed to the courts; also the total number of cases of unjust discrimination in which the decisions of the Commission have been sustained by the courts, and the total number of such cases in which the decisions of the Commission have been reversed.

Fifth. The total number of complaints of violation of published rates which have been made to the Commission since the enactment of the act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, the total number of such cases which have been settled by the Commission informally, the total number of such cases which have been settled by the Commission on formal hearing and decision rendered, the total number of such cases in which the Commission has appealed to the courts for the suppression of such violations of published rates, and the total number of such appeals which have been granted by the courts.

The Interstate Commerce Commission is also hereby directed to furnish to the Senate a list of the cases of exorbitant rates and a list of cases of unjust discrimination since the Commission was organized, and a list of cases of violations of published rates since February 19, 1903, which have been appealed to the courts, stating briefly the action taken by the courts in each of such cases; also a list of cases of violation of published rates since February 19, 1903, in which the courts have enforced the observance of published rates, by proper orders, writs, and process in the nature of injunction, and a list of the cases in which the courts have refused to take such action.

Mr. KEAN. What is this resolution?

The PRESIDING OFFICER. It is a Senate resolution, presented by the senior Senator from West Virginia [Mr. ELKINS].

Mr. KEAN. From the Committee on Interstate Commerce?

Mr. ELKINS. As chairman of the committee I offer the resolution.

Mr. KEAN. It seems to be rather voluminous, and I should like to have a little information about it.

Mr. ELKINS. It is merely an inquiry for information. I hope the Senator from New Jersey will not object.

Mr. KEAN. What is the object? To bring down two or three cartloads of documents?

Mr. ELKINS. Yes; to get the information.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. KEAN. I do not object to it.

Mr. COCKRELL. Let it be read again.

The PRESIDING OFFICER. The resolution will be again read.

The Secretary proceeded to read the resolution.

Mr. COCKRELL. I do not ask for any further reading. I did not catch the full scope of the resolution. It calls for information, and it is all right.

The PRESIDING OFFICER. The further reading of the resolution will be dispensed with. Is there objection to its present consideration?

The resolution was considered by unanimous consent, and agreed to.

#### HOUSE BILL REFERRED.

H. R. 16987. An act to provide for holding terms of United States courts at Greenville, Miss., was read twice by its title, and referred to the Committee on the Judiciary.

#### REPORT OF COMMISSIONER OF CORPORATIONS.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the concurrent resolution of the Senate for printing the report of the Commissioner of Corporations.

The amendment was to strike out, after the word "four," in line 6, the words "including therein the statement of the case and the opinion of the court in Paul against Virginia, 8 Wallace, page 168, and the statement of the case, the opinion of the court,



and the dissenting opinion in United States against E. C. Knight Company, 158 United States, page 1."

The PRESIDING OFFICER. The concurrent resolution and amendment will be referred to the Committee on Printing.

#### THE MILITARY ESTABLISHMENT.

Mr. PROCTOR. I move that the bill (S. 4505) to amend an act entitled "An act to increase the efficiency of the permanent military establishment of the United States" be indefinitely postponed. The matter was included in the last Army appropriation bill.

The motion was agreed to.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had on the 5th instant approved and signed S. 5704, an act to incorporate the American National Red Cross.

The message also announced that the President had on the 6th instant approved and signed the following acts:

S. 183. An act granting an increase of pension to John W. Currier;

S. 216. An act granting an increase of pension to Nelson Wells;

S. 922. An act granting an increase of pension to William S. Devlin;

S. 1421. An act granting an increase of pension to Charles L. Houghton;

S. 1576. An act granting an increase of pension to Emily M. J. Cooley;

S. 1904. An act granting an increase of pension to Isabella Chivington; and

S. 2414. An act granting an increase of pension to Elise Habercom.

The message further announced that the President had on this day approved and signed S. 6368, an act providing for the interment in the District of Columbia of the remains of Rose Dillon Seager.

#### MISSOURI RIVER BRIDGE AT YANKTON, S. DAK.

Mr. GAMBLE. I ask for the present consideration of the bill (S. 5798) to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend section 6 of the act approved March 9, 1904, authorizing the Yankton, Norfolk and Southern Railway Company to construct a combined railroad, wagon, and foot passenger bridge across the Missouri River at or near the city of Yankton, S. Dak., by extending the time for commencing the construction of the bridge to March 9, 1906, and by extending the time for completing the bridge to March 9, 1908.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MISSISSIPPI RIVER BRIDGE AT MINNEAPOLIS, MINN.

Mr. NELSON. I ask unanimous consent for the present consideration of the bill (S. 6261) permitting the building of a railroad bridge across the Mississippi River at the city of Minneapolis, State of Minnesota, from a point on lot 2 to a point on lot 7, all in section 3, township 29 north, range 24 west, of the fourth principal meridian.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### SUPPRESSION OF LOTTERY TRAFFIC.

Mr. KEAN. The Calendar, Mr. President.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the Calendar under Rule VIII.

The bill (S. 2514) to amend the act of March 2, 1895, entitled "An act for the suppression of lottery traffic through national and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States," was announced as first in order on the Calendar, and the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. GORMAN. Let the report be read.

The PRESIDING OFFICER. The report will be read.

The Secretary read the report, submitted by Mr. CLAY March 2, 1904, as follows:

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 2514) to amend the act of March 2, 1895, entitled "An act for the suppression of lottery traffic through national and interstate commerce and the postal service, subject to the jurisdiction and laws

of the United States," having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the Post-Office Department, as will appear by the following letter:

POST-OFFICE DEPARTMENT,  
OFFICE OF THE POSTMASTER-GENERAL,  
Washington, D. C., December 4, 1903.

SIR: I have the honor to transmit herewith, for the consideration of the Committee on Post-Offices and Post-Roads, a copy of a proposed amendment to the act of March 2, 1895, which relates to the suppression of lottery traffic. The suggestion of an amendment to that act is prompted by the decision of the United States circuit court for the northern district of Illinois, in the case of United States, ex rel. Champion, v. Ames, reported in the Federal Reporter, volume 95, page 453. The court, in passing upon one of the points raised in that case, spoke as follows:

"The complaint charges that the defendant caused to be carried and transferred by the Wells-Fargo Express Company, from the State of Texas to the Territory of New Mexico, certain lottery tickets. The act designates the offense to be the carrying or transferring of such matter from one State to another in the United States. The question to be decided, therefore, is in what sense the word 'State' is employed in the act in question. Does it include a Territory of the United States?"

"At a very early day the question came before the Supreme Court of the United States (Heppburn v. Ellzey, 2 Cranch, 445), in regard to the jurisdiction of the Federal courts, the act conferring jurisdiction providing that in order to confer jurisdiction upon the Federal court there must be a controversy between a citizen of one State and a citizen of another State, or between an alien and a citizen. The question arose whether an inhabitant of a Territory of the United States, who was a citizen of the United States, could maintain a suit in the Federal court, and upon that question we have the decision of the Supreme Court, speaking by Mr. Chief Justice Marshall, then whom no greater intellect ever adorned the bench of the Supreme Court of the United States. This decision was made in what might be termed the 'formative period' in the construction of the Constitution, at a time when many of its framers were living, and it might be termed a 'contemporaneous construction' of the Constitution. I have also read with great interest and care the several decisions of the district court of Oregon to which the court here was referred upon the hearing, and the reasoning of those cases has greatly impressed me; for there can be no sort of reason why a citizen of the United States who happens to be an inhabitant of a Territory should not be allowed access to the Federal courts of his country when an alien has that right, and it has seemed to me that the statutes should have been so construed that the word 'State' should apply to a Territory of the United States which is under its Government and subject to its laws.

"But the same argument and the same reasoning, which induced Judge Deady to hold that the word 'State' includes 'Territory' was presented to, and passed upon by, the Supreme Court at that early date in the construction of the Constitution, and the Chief Justice remarked: 'The act of Congress obviously used the word "State" in reference to the term as used in the Constitution, and therefore it becomes necessary to ascertain in what sense the word is employed in the Constitution, and the result of that examination is a conviction that the members of the American Confederacy only are the States contemplated in the Constitution. The House of Representatives is to be composed of Members chosen by the people of the several States, and each State shall have at least one Representative.' The Senate of the United States shall be composed of two Senators from each State. Each State shall appoint for the election of an Executive a number of electors equal to its whole number of Senators and Representatives. 'Those clauses show', says the Chief Justice, 'that the word "State" is used in the Constitution as designating a member of the Union, and excludes from the term the signification attached to it by writers on the laws of nations.' It was claimed before that court that other passages from the Constitution showed that the term 'State' was used in a more enlarged sense, but the court observed on examining the passages quoted that they did not prove what was attempted to be shown by them. 'It is extraordinary,' says the Chief Justice, 'that the courts of the United States, which are open to aliens and to the citizens of every State in the Union, should be closed upon them' when they are citizens and inhabitants of a Territory. 'But this is a subject for legislative, not judicial, consideration.'

"I feel bound by the decision of the Supreme Court to which I have referred, and which has been upheld and adhered to continuously from that time to the present. (Hooe v. Jamieson, 166 U. S., 395; 17 Sup. Ct., 596.) It is the law of the land to-day, with respect to the jurisdiction of the Federal courts, that the inhabitants of a Territory can not seek justice within the portals of a Federal court.

"Here is an act creating an offense unknown to the common law. It is a cardinal canon in the construction of criminal statutes that they should be construed strictly; that the courts have no right to extend their meaning beyond the scope of the terms employed; and we must seek for the intent of the lawmaking power in the language which has been used in the act itself. When Congress, knowing, as we must presume it did, that the word 'State,' as used in the Constitution, means simply State, and not Territory, and knowing also that the act, if it could be upheld at all, could only be sustained under the power given to Congress to regulate commerce between the States, employed that term, we must assume that it was in the constitutional sense, as interpreted and declared by the Supreme Court of the United States.

"It may be said—it may occur to anyone to say—that the transportation of lottery tickets into a Territory which was under the absolute control of Congress was as much within the mischief intended to be prevented as the transportation of such tickets from one State to another; but it is no more true than was the powerful argument presented to the Supreme Court that it was not intended to prohibit to citizens of the United States, because they happened to be domiciled in a Territory, the protection of the courts of the United States, and it was as easy a matter in the one case as in the other, as suggested by the Chief Justice, to apply the remedy. If Congress desired to prohibit the transportation of lottery tickets into a Territory of the United States, it should have said so. We may not enlarge the scope of a criminal statute to declare an offense which Congress has not created because we see that the mischief is the like mischief that Congress has sought to prevent in respect to other geographical divisions of the Union. I have come reluctantly to the conclusion that it would be judicial legislation for the court to hold, in view of the decisions of the Supreme Court, that the word 'State,' as used in this act, includes the Territories of the United States. It follows, therefore, that this complaint presented to the commissioner charges no offense against this petitioner, and that he must be discharged from imprisonment."



No appeal was taken from this decision.

An extension of the act so as to include all cases which may arise through national and interstate commerce, as indicated by the title of the act, seems advisable. In doing this the language of the act of February 4, 1887 (as amended 1889, 1891, and 1895), entitled "An act to regulate commerce," has been used, and the expression "or Territory under the jurisdiction of the United States" has been added in view of the decisions of the Supreme Court in the insular cases. The words used in amendment are underscored, and the words stricken from the act are put in parentheses for convenience.

Very respectfully,

H. C. PAYNE, *Postmaster-General*.

The CHAIRMAN COMMITTEE ON  
POST-OFFICES AND POST-ROADS,  
*United States Senate.*

Mr. CLAY. Just a word in explanation of this bill.

The present law relating to the transmission of lottery tickets through the mails has been held to apply only to mail transmitted from one State to another. A person was indicted for using the mails in the transmission of lottery tickets from Texas to New Mexico. The counsel for the defendant made the point that New Mexico was a Territory and not a State; that the present criminal law relating to the use of the mails for the purpose of transmitting lottery tickets must be strictly construed, and so that it did not apply to lottery tickets transmitted from a State to a Territory. That contention of the defendant was sustained, the indictment was quashed, and the defendant acquitted.

The Post-Office Department state that it is necessary for this law to also apply to the transmission of the mails from a State into the District of Columbia and from a State into a Territory. The only thing this bill does is simply to apply the present law both to Territories and the District of Columbia as well as to the States. There is no change made in the general law, except to make it applicable to the District of Columbia and to the Territories.

If this bill shall become a law, and lottery tickets shall be transmitted through the mails from the District of Columbia to a State or a Territory, the party using the mails for that purpose would be criminal. If this bill shall become a law and a person shall attempt to use the mails for the purpose of transmitting lottery tickets from a State into a Territory, it would be a violation of the law.

The Post-Office Department recommended the passage of this bill, and it comes here with the unanimous indorsement of the Committee on Post-Offices and Post-Roads. I do not see how there can be any objection to it.

Mr. GORMAN. I would ask the Senator whether the bill would not go beyond the District of Columbia and the Territories within the limits of the United States, and apply as well to territory which we have recently acquired?

Mr. CLAY. It would. I think if under this bill a person should undertake to use the mails for the purpose of transmitting lottery tickets to the Philippine Islands, or to any other of our possessions, he would be guilty of a violation of the law; and I am inclined to think it ought to be that way.

Mr. PLATT of Connecticut. Will the Senator permit me?

Mr. CLAY. With pleasure.

Mr. PLATT of Connecticut. I see that this bill follows the language of the existing act in the commencement of the bill, but it is in very peculiar language. This bill reads:

That any person who shall cause to be brought within the United States from abroad, for the purpose of disposing of the same, or deposited in, or carried by the mails of the United States—

That is the existing law, I suppose.

Mr. CLAY. Yes, that is the existing law.

Mr. PLATT of Connecticut. I suppose it must have had some construction, but it is not grammatical or clear, as the Senator will see. I suppose, however, as it has had a construction, it would not be worth while to change it.

Mr. CLAY. I think not.

Mr. SPOONER. Does the Senator from Connecticut not think that, so far as it is within our power, an act ought to be reasonably grammatical? Certainly no court ever held this language to be grammatical.

Mr. PLATT of Connecticut. Let me refer to another matter.

Mr. SPOONER. Very well.

Mr. PLATT of Connecticut. In line 8 the word "another" is put in parentheses and followed by the words "any other." What is the necessity for that? The original act says:

Carried from one State to another in the United States.

Now, this bill says "another," in parentheses, and then the words follow: "Any other State or Territory." Is it necessary for both to be in there?

Mr. CLAY. I do not think so; but I will state to the Senator that this bill was drawn, according to my understanding, by the Attorney-General for the Post-Office Department.

Mr. PLATT of Connecticut. That does not help it very much in my mind.

Mr. CLAY. I know it does not, but he followed the existing statute, and simply intended to include the Territories and the District of Columbia, or any other possessions belonging to the United States. There was not any desire or purpose, I suppose, to change the words of the existing law, except to include the District of Columbia and the Territories belonging to the United States.

Mr. PLATT of Connecticut. But it does change the existing law in that respect by inserting that word "another," and then inserting the words "any other," after having included the word "another" in parentheses.

I do not know who is the Attorney-General for the Post-Office Department, but I do not think it concludes us to say that the bill was drawn by the Attorney-General for the Post-Office Department.

Mr. CLAY. I will say to the Senator that I think the trouble probably comes from the original act.

Mr. PLATT of Connecticut. No; the words "any other" are not in the original act. It is "another."

Mr. CLAY. Well, I am sure that ought to be changed.

Mr. GORMAN. I suggest, then, Mr. President, that this bill go over without prejudice, as the Senator from Nevada [Mr. NEWLANDS] desires to take the floor at 1 o'clock, in accordance with the notice he gave yesterday.

The PRESIDING OFFICER. The bill will go over under the rule without prejudice.

#### NATIONAL INCORPORATION OF RAILROADS.

Mr. NEWLANDS. Mr. President, in accordance with the notice I gave yesterday, I ask unanimous consent that the joint resolution (S. R. 86) creating a commission to frame a national incorporation act for railroads engaged in interstate commerce may be taken up for discussion.

The PRESIDING OFFICER. The Chair lays before the Senate the joint resolution referred to by the Senator from Nevada, which will be read.

The Secretary read the joint resolution, as follows:

*Resolved, etc.,* That a commission consisting of fourteen members, one of whom shall be experienced in railroad traffic management, to be appointed by the President of the United States, one of whom shall be an attorney at law, to be appointed by the Attorney-General, one of whom shall be an expert in transportation, to be appointed by the Secretary of Commerce and Labor, one of whom shall be an expert in transportation law, to be appointed by the Interstate Commerce Commission, five of whom shall be Senators, to be appointed by the President pro tempore of the Senate, and five of whom shall be Members of the House of Representatives reelected to the Fifty-ninth Congress, to be selected by the Speaker of the House, shall frame and report to the Congress of the United States a national incorporation act for railroads engaged in interstate commerce, providing, among other things, as follows:

First. For the construction of interstate railroads throughout the United States, the amount of the bonds and stock to be issued by such corporations to be determined by the Interstate Commerce Commission, and not to exceed in any event the actual cost of such railroads;

Second. For the consolidation of railroads now engaged in interstate commerce, the amount of stock and bonds issued for such consolidation to be approved by the Interstate Commerce Commission, and not to exceed in any event the actual value of the railroads consolidated, such value to be determined by the Interstate Commerce Commission;

Third. For the increase of the issues of bonds or stock by such corporations for the purchase of connecting or intersecting lines, for new construction, or for betterment of the roads, the amount of such issue of stock and bonds to be determined by the Interstate Commerce Commission, and not to exceed in any event the cost of such new construction, the betterments, or the value of the intersecting or connecting lines acquired;

Fourth. For the classification by such railroad corporations of all articles of freight into such general and special classes as may be necessary and expedient, and also the fixing of transportation rates for freight and passengers by such railroads, such classification and rates to be subject to revision and amendment by the Interstate Commerce Commission upon complaint of shippers and localities;

Fifth. For the reasonable and just exercise of such power in classifying and regulating such rates of freight and fare by providing that such power shall be exercised by the Interstate Commerce Commission in such a way as to yield each railroad corporation a fair return of not less than 4 per cent per annum upon the value of its road and property, such value to be ascertained by the Interstate Commerce Commission;

Sixth. For the hearing by such commission of complaints made either by such railroad corporations or other party at interest regarding the decision of any rate, classification, order, or regulation adopted by such commission, and for decision thereon;

Seventh. For summary proceedings in the courts on the complaint of any railroad company or other party at interest concerning the decision of any rate, classification, order, or regulation adopted by such commission;

Eighth. For the imposition of a percentage tax upon the gross receipts of all such corporations in lieu of all taxes upon the property of such railroad corporations and its stock and bonds, and in lieu of all taxes upon the bonds and stock of such railroad companies in the hands of stockholders, the property of such railroads and their bonds and stock to be entirely exempt from State, county, or municipal taxation, and for a just plan of distributing such taxes by the Federal Government among the States in which such railroads operate according to trackage or volume of business, or such other fair method as may be deemed advisable, such percentage to be so adjusted as to yield in the aggregate an amount equal to the taxes now paid by such railroads, and to be increased gradually through a period of ten years, until it



reaches an aggregate of 5 per cent upon the gross receipts of such corporations;

Ninth. For the correction of existing abuses, and for the prevention of rebates, preferences, and discrimination, whether relating to communities or individuals;

Tenth. For the creation of a pension fund for railroad employees disqualified either by injury or by age for active service, by setting aside a percentage of the gross receipts of the railroads in a fund in the Treasury, to be invested according to rules and regulations made by the Interstate Commerce Commission, such pension system to be devised, changed, and modified from time to time by the Interstate Commerce Commission;

Eleventh. For the arbitration of all disputes between such railroad corporations and their employees as to compensation, hours of labor, and protection to life and limb.

SEC. 2. That the sum of \$5,000 is hereby appropriated for the expenses of such commission.

Mr. NEWLANDS. Mr. President, this joint resolution was introduced by me on the 4th of January of this year. It is the result of a hearing before the Interstate Commerce Committee of the Senate on the 16th day of December, just prior to the holidays, at which Mr. Bacon, chairman of the Interstate Commerce Law Convention, appeared and urged the passage of the Charles-Cooper bill for the enlargement of the powers of the Interstate Commerce Commission. During that inquiry I questioned Mr. Bacon regarding a plan, which I have had under consideration for some time, as to the simplification and unification, under one national taxing power and one national rate-regulating power, of the railroad systems of this country. After these inquiries were made, and the questions answered, there was some discussion among the Senators present as to the principles of this proposed national incorporation act, and it was suggested that I should bring the matter up for discussion in the Senate.

I therefore endeavored to frame a national incorporation act, but I found that in doing so I would be obliged to enter into a great many matters of detail not essential to the elucidation of the principles for which I contended, and I feared that if I should frame an elaborate bill more attention would be given to the details than to the principles. Therefore I concluded to draw up a joint resolution providing for the appointment of a commission, consisting of four experts in transportation and transportation law, five Senators, and five Representatives, and instructing them to frame and report to Congress a national incorporation act, prepared upon certain principles declared in the joint resolution. It is in reference to those principles that I wish to address the Senate today, in the hope that the subject may become a matter of discussion, and that discussion here may instruct the minds of the members of the Interstate Commerce Committee regarding this important question.

#### RAILWAY EVOLUTION.

Mr. President, we find that to-day in this country there are about 200,000 miles of railroad in the ownership and control of over 2,000 railroad corporations incorporated under the laws of the various States. We find that of those 2,000 corporations only about 600 are operating companies, the others by some method having come under control of these operating companies. As to these operating companies, we find that they have fallen under the control of certain systems. So that to-day it is a well-recognized fact in this country that almost all the railroad trackage of the country is under the control of eight or ten systems, each of which is under the absolute direction and control of either a single man or a group composed of a small number of men.

So, as a matter of fact, although our railroads are incorporated under State laws, the boundary lines of the States have been practically ignored in the evolution of railroads, and to-day we speak familiarly of the Harriman system, of the Hill system, of the Morgan system, and of the Pennsylvania system, each system covering not simply a single corporation, but many corporations joined together, often without express sanction of the law, by some method of lease or trackage or traffic arrangement or through holding companies, and each system under the absolute control either of one man or of a set of men.

I regard this as a natural and practical evolution of the railroad business, resulting, so far as the economic operation of the roads is concerned, in advantage and not disadvantage, and operating, so far as the convenience of the public is concerned, to their advantage and not to their disadvantage, and only likely to be operated against the interest of the country when we consider the questions of rates, of rebates, and of discriminations.

It is with reference to these matters, then, that the railroads should be brought under some form of unified control, and that unified control should be exercised in such a way as not to impair the initiative, the energy, and the enterprise of the operators of these great railroads.

#### NATIONAL POWER.

Now, I assume that if to-day there were no railroads in this country and the United States should conclude to enter upon

the construction of interstate railroads, under the interstate-commerce power of the Constitution, the power of the Government to do so would not be questioned. It has not only the power to regulate commerce, it has the power to create the instrumentalities for the exercise of that power; and if in its judgment it concludes to enter upon the building as a Government enterprise, of interstate railways, for the purpose not only of exercising the interstate-commerce power of the Constitution, but the power conferred by the Constitution upon the General Government with reference to the mails and with reference to the military defense, I imagine the power would not be questioned.

I also assume that if the Federal Government constructed and owned these railroads as Federal instrumentalities for the exercise of national powers, the National Government would not permit them to be embarrassed or impeded in their operations by State legislation—by State legislation under the exercise of the taxing power, for the power to tax would involve the power to destroy; and the Government of the United States, as a sovereign, exercising its power on the soil of each one of the States, has the right to exercise it unimpeded and unembarrassed by the taxing power in the State.

So, also, I take it for granted that it would be unembarrassed by the rate-regulating power of the various States; that power which now exists over domestic rates, interstate rates, for that power, if exercised, would have a tendency to impede and perhaps destroy the Federal instrumentality just as much as would the power of taxation. It would probably impede and embarrass it even to a greater extent than the exercise of the power of taxation.

So, starting off with that assumption, comes the further assumption that if the Federal Government chooses to incorporate private corporations to perform the public service of the country, for the purpose of carrying out this constitutional power, it can also exempt such railroads in private ownership, but subject to public control, from any power of the States that embarrasses or tends to destroy the Federal instrumentality, just as much so as if it itself owned the railroads.

Now, then, assuming that the Federal Government has the power to incorporate railroad companies for the purpose of carrying out the interstate-commerce power, and that these railroads can be exempted from local taxation and from local regulation, then we have the question unembarrassed. We have railroads organized under a national law, their stocks and bonds fixed as to amount by law or by the Interstate Commerce Commission, so as to prevent inflation or the watering of stocks and bonds; and we have one taxing power—the Federal Government; and we have one rate-regulating power—the Federal Government.

I insist upon it that in order to secure the proper control and regulation of the railroads of the country it is essential that we should not have a confusion of taxation and a confusion of rate regulation.

Mr. BACON. Will it interrupt the Senator if I ask him a question right here? If it will, I will defer it.

Mr. NEWLANDS. I would prefer it if the Senator would let me proceed consecutively, and then I will answer any question later.

#### STATE LINES SHOULD BE DISREGARDED.

It seems to me it must be manifest that if we are to have a system of railway extending from New York to San Francisco, running through ten States, and if we are to apply the principles laid down by the Supreme Court of the United States as to the control over rates, and if we are so to adjust those rates in the exercise of the interstate-commerce power as that there shall be a fair return to the corporations upon the value of their property, it is essential that there should be but one body to value and but one body to fix the return. And yet under existing conditions we would have ten States exercising the taxing power regarding that system of railway, ten States through their legislatures or their local commissions valuing the railroads, and ten States fixing the return in the shape of interest upon the valuation.

It is impossible to assume that they will all come to the same conclusion, and if they do not come to the same conclusion we will have each one of those States fixing a different valuation upon the part of the road that goes through that State; each one of the States taxing the road upon varying systems; each one fixing a different return in interest upon the valuation of the road, and above and beyond all that, we will have the United States Government making its own valuation through the Interstate Commerce Commission, and the United States through that Commission fixing the rate of return in the shape of interest, and we will have varying rates of interest, interest varying all the way from 4 to 10 per cent.

Mr. SPOONER. I should like to ask a question for informa-



tion. The Senator from Nevada has evidently given this subject much thought. I have listened to him with interest, and I do not want to disturb him. I should like to ask him a question in order to get his views. If the Senator would prefer, I will not ask him now.

I want to know simply whether the Senator intends to assert that because Congress incorporates a railway corporation to transport products from one State to another, thereby the States, purely as to domestic commerce, lose their right of regulation and their right of taxation?

Mr. NEWLANDS. I think under a well-ordered system they ought not to have that right.

Mr. SPOONER. But does the Senator claim there is any such system under the Constitution now as would lead to that result, provided only the incorporation be a Federal incorporation?

Mr. NEWLANDS. There is no such system now. What I propose to do is to shape the way for such a system.

Mr. SPOONER. Does the Senator think Congress has power by creating an interstate or Federal corporation to operate a railroad from State to State to dispossess in any way under the Constitution as it now exists the power of the State to regulate purely State commerce, although carried on by a Federal corporation?

Mr. NEWLANDS. I do think so as to a national corporation; that is to say, the State is not dispossessed of its power, but its exercise can not be applied to a national instrumentality.

Mr. SPOONER. I did not understand the Senator.

Mr. NEWLANDS. The inconveniences of this system of divided control over these great systems of railroads by the various States in the way of taxation and rate regulation and by the National Government in the shape of interstate regulation must be obvious, and the question is whether we can organize a system that will work out justice to the States and which will simplify and unify the entire railroad system of the country.

#### METHOD OF TAXATION.

First, as to the method of taxation, the resolutions which I have introduced suggest that the following method should be pursued: That the Interstate Commerce Commission should have the power to value a railroad constructed under this national act, or railroads consolidated under this national act, and should have the power to fix a return in the shape of interest upon that valuation.

As to taxation, the simplest form of taxation would be a tax of 3 per cent upon the gross receipts of such corporation. I have fixed 3 per cent because I find upon calculation that the total gross receipts of all the railroads in this country to-day aggregate nearly \$2,000,000,000, and that the total taxes paid by all the railroads amount to about \$56,000,000, and that is just about 3 per cent of the gross receipts.

I therefore fix the present percentage at 3 per cent, so as to insure payment by the railroads of the amount which they now pay. But I provide for a gradual increase of that tax, extending over a period of ten years, at the rate of one-fifth of 1 per cent per annum until it reaches 5 per cent, for there is general complaint throughout the country that the railroads are not taxed in proportion to other property in the country, and we all know that an agitation is going on in almost every State in the Union as to the increase of railroad taxes. I assume that 5 per cent—possibly it should be 4 per cent—would be a fair percentage for the railroads to pay upon their gross receipts, and if we make the increase a gradual one, extending over a period of ten years, we will, whilst increasing the taxation, not do it so rapidly as to wrench the finances of the railroads of the country.

Now, the advantage of this percentage tax is this: It makes the tax a matter of mathematical certainty.

Mr. SPOONER. A franchise tax.

Mr. NEWLANDS. A franchise tax. What is the condition now? No railroad in the country knows what its tax next year is going to be. They are subject to the caprice or the judgment or the passion or the prejudice of hundreds of assessing officers throughout the entire country, boards of equalization, and of State legislatures. If you are going to make railroading an exact science we should make their taxation a matter of mathematical certainty, and I know of no better method than this percentage tax upon the gross receipts, for the gross receipts are a matter of record on the books of the corporations, and besides that the railroads are compelled now under the interstate-commerce law to make reports under oath to the Interstate Commerce Commission regarding the gross receipts.

#### THE RAILROADS IN POLITICS.

There will be no opportunity of evading the tax. There will be no temptation to engage in politics with a view to controlling the assessing officers and the equalizing bodies. We know to-

day that as a result of the taxing power and of the rate regulating power as to domestic rates that are possessed by the various States of the Union the railroads are invited into politics. It is impossible for them to escape politics. The result is that they take part in the election of every officer whose duties are likely to trench in any degree upon the taxing power or the rate-regulating power.

These railroads do everything systematically, and hence entering into politics with them means the organization of a political machine in every State in the Union, and as they pursue the lines of least resistance it oftentimes means the alliance of the railroads with the corrupt element of every community.

So it is that the railroads are present everywhere in politics, forced to be in politics by the existing condition of things, for their properties lie between the upper and the nether millstone—the upper millstone the taxing power, and the nether millstone the rate-making power. Between the two they can be crushed, and it is not in human nature to expect them not to take an interest in politics, and if they take an interest in politics that interest is often likely to be exercised in such a way as to be to the disadvantage and injury of every community in which it is exercised. If they exercise no political power they are liable to be held up by the blackmailer or attacked and injured by the demagogue or to be prostrated by storms of popular violence. On the other hand, if they secure political control they are likely to use it to promote extortion and monopoly.

The purpose of this resolution is to unify and simplify the railroad systems of the country; to recognize the recent evolution in railroading, under which the operation and management of almost the entire railroad mileage of the country has come under the control of about ten well-known systems; to place such systems under national control; to make the taxes of the railroads fixed and certain, and to provide for fixed dividends, so that hereafter any increase of business will tend mathematically either to a betterment of the roads, to an increase in wages, or to a diminution in rates.

By unifying the railroads of the country into scientific systems under a national incorporation act, and consolidating the control now exercised by legislatures and commissions of forty-five different States in the hands of the Interstate Commerce Commission, and by substituting a simple tax mathematically ascertained, to be divided justly between the States, it would be easy to check and destroy the existing system of rebates and discriminations and to correct every existing abuse. The public would be protected from extortion and the railroads against popular caprice and violence.

#### DISTRIBUTION OF TAX AMONG STATES.

Now, you say that it will be utterly impossible to provide for a percentage tax imposed by the Federal Government upon the franchise of these corporations, because the States will not assent to it—will not agree that their revenues shall be taken away. I mean to say that the representatives of the States will not agree to the passage of a national incorporation act; that the local sentiment will be so strong they dare not vote for it; and I believe that sentiment must be met. You can not violently wrench the financial system of every State and of every municipality in this country when such financial systems at present largely draw their support from the railroads of the country.

So I provide that this percentage tax shall be paid into the Federal Treasury and shall be divided among the various States by some fair system of distribution, either in proportion to trackage or in proportion to the volume of business furnished by each State.

Mr. PLATT of Connecticut. The State has nothing to say about the division?

Mr. NEWLANDS. The State has nothing to say. That will be left to the justice of Congress, and I assume that Congress will so exercise the power as to give each State approximately the revenue it now receives; and if its percentage is gradually increased from 3 to 5 per cent, resulting in a total income not of \$56,000,000 annually, as at present paid, but in the ultimate of over \$80,000,000, the amount coming to each State will be increased instead of diminished. So it will be to their interest to support this very measure so far as their financial conditions are concerned. They would be relieved of the entire expense of machinery for the imposition and the collection of these taxes. They would receive their proportionate amount, determined by some fair rule, either according to trackage or the volume of business.

So I assume that if this act can be constitutionally passed it can be shaped in such a way as to taxation as will not meet the violent opposition of the States, an opposition, of course, which would be reflected here in an attempt to defeat the measure.



## RATE REGULATION BY STATES.

Now, as to the rate-regulating power, my judgment is, and it is the belief of almost all experienced men in this country, that the rate-regulating power exercised by the State has not, as a rule, been beneficially exercised. I believe that it is the experience of every State in the Union, or almost every State, except perhaps Massachusetts and one or two other well-regulated States, Texas among the number, that this power has not been exercised satisfactorily.

We find that if the power is intrusted to the legislature it is not exercised wisely or scientifically. It is utterly impossible for a legislative body to act upon so complicated a matter. If the power is intrusted to a State commission we find that that State commission is always in politics.

As a rule the members are elected by the people, and the powers of the railroads are exercised in every State in the Union with reference to the election of these commissions, and their powers are so exercised as to result in the control of the commission or in the neutralization of the commission.

We all know that the railroads of the country in their entirety, having 1,000,000 of the voters of the country in their employ, can naturally rely upon their employees in any contest affecting the interest of the corporations themselves. It is true the employees will take strong ground against the corporations themselves with reference to their own matters and with reference to their own rights; they will wrangle with the management; they will engage in strikes in contention for their own rights; but whenever it comes to imperiling the common fund out of which the profits of the operators and the wages of the employees are alike paid, you will find that the employees of the railroads always rally to the support of the railroads.

We have about 13,000,000 voters in this country. Over 1,000,000 of them are in the employment of the railroads. Each one of those voters is able to influence one or two votes more. I ask you, in any question affecting the interests of the railroads of this country, with this disposition of the employees to stand by the railroads in any matter affecting their common interest, how the people can ever expect to control when the balance of power is practically held by these great corporations owning this vast property, representing \$10,000,000,000 in value, between the upper and nether millstone of taxation and rate regulation? So that while the States have nominally the power, it is either not exercised or it is not exercised wisely, and it is not exercised wisely because of the complication of the situation.

I ask you how each of ten regulating bodies, operating upon a system of railroads running through ten States, can carry out the principles declared by the Supreme Court as controlling regulating bodies in the determination of rates, and how are they going to come to the same conclusion as to the valuation of the roads and as to the rate of interest which should be allowed? If the States make an undervaluation or if they fix a rate of interest unduly low, that affects the gross income of the corporation; and then when the regulating power of the Federal Government as to interstate rates is exercised, I ask you how it can be exercised properly if the income has been so seriously affected by the local action of the States?

## NATIONAL RATE REGULATION.

Now, then, as to rate regulation, I should put this power in the hands of the Interstate Commerce Commission—the power simply to revise and amend the classification and the rates made by the railroads themselves. I would not put this power primarily in the hands of the Commission, because the power of classification itself and the power of rate-making involve knowledge of numerous details—expert knowledge. So I would intrust that to the railroads themselves, giving, however, the Interstate Commerce Commission full power to revise and amend any classification or any rate. Whether or not such decision should go into immediate effect or whether some provision should be made for an immediate resort to the courts and a summary determination by the courts is a mere matter of detail.

So also I would provide, by the most stringent provisions, for the punishment of rebates and discriminations. I take it that under existing conditions the evils of which the American people have to complain to-day are mainly questions as to rebates and discriminations, both as between individuals and as between communities.

Taking the income of all the railroads in the country it can hardly be claimed that it is very excessive. The rates of some railroads may be too high, but they are perhaps offset by the rates of other railroads that are too low. We know, as a matter of fact, that the railroads of this country are to-day receiving a return upon \$60,000 a mile, whilst in England they are capitalized at \$200,000 a mile, and in Germany they are capitalized, I believe, at \$100,000 a mile.

It is true that our roads may not have been so expensively constructed as the roads over there; they may not be so perfect in their construction and their ballasting, and their depots and station houses may not be so perfect; but certainly you can not say that there is a very excessive capitalization of the railroads of this country in the aggregate, when you find that they are capitalized at \$60,000 a mile, while the railroads of Germany are capitalized at \$100,000 a mile, and of England at \$200,000 a mile.

If this power as to rebates and discriminations is given to one regulating and controlling body it can be much more efficiently exercised than it can be if there are numerous bodies. The attention of the country will be centered upon one responsible commission, and it will be utterly impossible for that commission to work for any great period of time an injustice to the country.

Now, Mr. President, these are in brief the outlines of the suggestions covered by my resolution. I wish to say that the resolutions are simply tentative, simply thrown out for discussion. It is possible it may be ascertained that all these things can not be embraced within the constitutional power of the Federal Government. I am inclined to think from my brief examination of the authorities that they can be, but I do not pretend to have made an exhaustive inquiry upon this subject.

Mr. FORAKER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Ohio?

Mr. NEWLANDS. Certainly.

Mr. FORAKER. I understood that the Senator was about to close.

Mr. NEWLANDS. Yes.

Mr. FORAKER. And I wanted to ask him before he takes his seat to explain to us, if he can, how he is going to bring about the incorporation under Federal statute of all the railroads that are now engaged in interstate-commerce business in the country.

## HOW BROUGHT ABOUT.

Waiving all question of doubt and assuming every phase of the proposition as to its constitutionality and validity in every sense, how is it to be brought about? Here, for instance, is the Pennsylvania Railroad Company. It is not incorporated under any Federal statute. It has been an incorporated company for a great many years. It embraces a great many subordinate companies, I understand. How are we going to get all those companies reincorporated under a Federal statute, if we have one? I mean if they do not want to obtain it.

Mr. NEWLANDS. My answer is that I would endeavor to shape the bill in such a way that it will partially drive and partially coax the railroads into national incorporation.

Mr. FORAKER. Let us confine ourselves first to those who are to be driven. I am asking for information. The proposition of the Senator is a very interesting one.

Mr. NEWLANDS. We could do this. We could provide in the act that no railroad company should engage in interstate commerce unless incorporated under the national act. If that were done, each State corporation incorporated under the laws of a single State could do business inside of that State, but it could make no arrangement or no contract there relating to interstate commerce.

Mr. FORAKER. Does the Senator think that prohibiting a railroad from engaging in interstate commerce would be a regulation of interstate commerce?

Mr. NEWLANDS. I think it would be. The United States Government has the right to choose the instrumentality for the exercise of that power, and if it determines to incorporate a railroad company under a national incorporation for that purpose it can prevent the exercise of interstate commerce by any other organization.

Mr. SPOONER. Will the Senator go so far as to say that Congress has the power also to provide that no State corporation engaged in production shall put its product into interstate commerce unless it becomes a Federal corporation?

Mr. NEWLANDS. No; I am not prepared to go that far. I wish to say right here that this suggestion does not follow the recent report of Commissioner Garfield. The suggestion of this bill was made by me in the Senate Interstate Commerce Committee before that report appeared, and the suggestion was the result of thought for a considerable period of time and of discussion by myself with others who are interested in this question.

## STATE COMMERCE.

Mr. SPOONER. If I may, with the permission of the Senator, I will state that I have listened with interest to his observations, but I think he assumes too many propositions. In the first place, the Senator assumes, and I have never understood it

to be the law, that the power in Congress to create a railway company to engage in interstate commerce is an incident of the great power back of that to construct railways all over the United States and become itself a governmental carrier of freight and passengers.

Mr. NEWLANDS. I will ask the Senator does he question the power?

Mr. SPOONER. I question the power very much.

Mr. NEWLANDS. Of the United States Government?

Mr. SPOONER. I question the power very much upon the grounds suggested by the Senator. I am not able to see that the power to regulate commerce among the States involves the power in the Government to become a great universal governmental carrier itself to the exclusion of private enterprise and commerce between the States. I admit—and the Senator need not assume that, because it is settled—that Congress, in the exercise of the interstate commerce power, may create instrumentalities through which commerce may be carried on among the States. That power has been exercised before. The Northern Pacific Railway was constructed from the Lakes to the ocean under a Federal charter, and the Supreme Court has settled that.

But the point to which I wish to call the Senator's attention and which is troubling me is this great proposition to dismantle the States. One comes out every day in some phase or guise. A new phase is the Senator's assumption that because Congress has the power to create a railway company authorized to construct and operate a railway between States it follows that Congress may take under its protection and domination purely State commerce, commerce originating in a State and ending in a State. Now, where does Congress obtain any power under the Constitution to do that thing?

The Constitution of the United States, unlike the constitution of a State, is a grant of power. When the exercise of a power by Congress is proposed we look to see whether expressly or by implication it is granted by the Constitution.

Mr. NEWLANDS rose.

Mr. SPOONER. Will the Senator permit me? I will be through in a moment. I only want to put a question.

On the contrary, the constitution of a State is not a grant. It is a limitation. The legislature of the State possesses all legislative power except it be deprived by some restriction in the Constitution from the exercise of some function which upon general principles is legislative.

Now, the power to regulate commerce among the States is one thing. That is conceded to exist. But how does the Senator spell out of that, and if he can not spell it out of that where does he find in the Constitution the power to regulate commerce in the States and to take away from the State the power to regulate commerce within the State, whether the carrier be operating under a Federal charter or under a State charter?

The Senator is a lawyer of learning and ability, and he has thought much on this subject. I should like to have him, if in accord with his inclination, enlighten me upon this question, which has troubled me.

Mr. NEWLANDS. The Senator has admitted that the Federal Government can, if it chooses, construct an interstate railway—

Mr. SPOONER. No; I have not.

Mr. NEWLANDS. Extending from New York to San Francisco.

Mr. SPOONER. I have not.

Mr. NEWLANDS. I understood you to so admit.

Mr. SPOONER. I said this: I do not know what may be decided about it, but I am not able at this moment to see how the power to regulate commerce among the States can be twisted into a power to carry on all commerce as a Government between the States. To regulate commerce carried on by a Federal corporation or carried on by a State corporation between the States is one thing.

The proposition for the Government to acquire all the railways in the United States and construct thereafter all the interstate railways in the United States and become a governmental carrier is another thing. What I admitted was that Congress has clear authority to create Federal railway corporations empowered to construct, maintain, and operate railways between the States. That has been decided.

Mr. NEWLANDS. Now, take the case in which the Federal Government did form a corporation for that purpose—the Union Pacific Railway. Does the Senator doubt that the United States Government could itself have built, if it had chosen so to do, that railroad instead of intrusting it to a corporation created by the National Government?

Mr. SPOONER. Yes, I doubt it to mainly transport for hire persons and freight; but, Mr. President—

Mr. NEWLANDS. Very well; if the Senator's contention—

Mr. SPOONER. That for purely military purposes the Government might do it in a certain case is one thing. I am talking about the general subject of commerce. This is the question I wish to put to the Senator: Does the Senator claim that Congress has jurisdiction over purely State commerce?

Mr. NEWLANDS. No; I do not.

Mr. SPOONER. Very well. Then I should like to have the Senator indicate upon what principle it is he contends that the mere incorporation by Congress of a Federal railway corporation authorized to construct, maintain, and operate a railway from State to State would deprive the State of its power to regulate purely State commerce carried on by that corporation? That is what troubles me.

There is another thing I should like to know.

Mr. NEWLANDS. One at a time.

Mr. SPOONER. I should like to have the Senator explain how it is that the State can be deprived of its power of taxation of property solely in the State and business that is purely State, not interstate, business. Those things trouble me a little.

Mr. NEWLANDS. Mr. President, I do not contend for a moment that the Federal Government has the power to exercise the State power of taxation. I do not contend for a moment that it has the power to exercise the State power of regulation of intra-State rates. All that I do contend is that when the Government itself constructs a railroad, in the exercise of the powers conferred upon it by the Constitution, whether those powers relate to the mail or the military defense or the regulation of interstate commerce, that that instrumentality for the exercise of the national power which the Federal Government has called into being can not be taxed out of existence or regulated out of existence by any State.

That is all I contend. I contend that if a railroad is built by the Government no power could be exercised by any State over that railroad which would impair or destroy its efficiency, because the National Government is building that railroad as a sovereign in a territory under its jurisdiction, for so far as the sovereign power of the United States is concerned, the land embraced within the area of every State is subject to that sovereignty, and that sovereignty can not be impinged upon or interfered with, or harassed or impeded in any way by the State government. That is all I contend for. The Senator seems to think I am contending that the National Government is to go into the business of regulating intrastate rates.

Mr. SPOONER. If the Senator will permit me—

Mr. NEWLANDS. All I contend for is that as to this instrumentality of the Federal Government the State can not so exercise its powers as to destroy or impair its efficiency.

Mr. SPOONER. Mr. President—

The PRESIDING OFFICER. Before placing the unfinished business before the Senate, the Chair will inquire what disposition the Senator from Nevada desires to have made of his resolution?

Mr. GORMAN. I suggest that by unanimous consent the regular order to be laid aside temporarily.

The PRESIDING OFFICER. Unanimous consent is asked that the regular order be temporarily laid aside.

Mr. BEVERIDGE. I should be very glad to agree to that if it were not perfectly plain, even to one who has listened to this most engaging discussion for only a moment, that it will not be concluded at a very early period. I suggest that this discussion, which has within itself the possibilities of an interminable one, shall go over until the morning hour to-morrow, and that we proceed with the unfinished business.

Mr. GORMAN. I hope the Senator will not insist on that course.

Mr. BATE. I think it was understood that the Senator from Colorado [Mr. TELLER] would be here this morning to speak on the statehood bill. That Senator sent me word that he could not be here, and told me to so state to the Senator from Indiana.

Mr. BEVERIDGE. That is all right. I suggested to the Senator from Colorado yesterday, when he was here and was ill, that he may go home with perfect safety. There is no reason that I see why we can not go on with the reading of the bill and action upon the amendments of the committee. Neither of the Senators engaged in this illuminating debate has asked that we shall go on now with the matter which has been under discussion. I think perhaps it would be well for us at least to complete the reading of the statehood bill, and then we will see. There is not going to be any crowding done here, I will assure the Senator.

Mr. BATE. I do not know that Senators on either side desire to speak at all to-day on the statehood bill.

Mr. BEVERIDGE. No person desires to speak. I informed the Senator yesterday that no one desired to speak on our side of this controversy at present.



Mr. BATE. It seems to me this is the time, if they intend to do so, to give some attention to debate.

Mr. BEVERIDGE. I know it may seem so to the Senator, but we will try to make progress to-day.

The PRESIDING OFFICER. The Chair understands that the Senator from Indiana objects to the request of the Senator from Maryland.

Mr. BEVERIDGE. Yes.

Mr. CULLOM. I desire to make an inquiry of the Senator from Nevada. I wish to inquire whether the Senator from Nevada has concluded his address?

Mr. NEWLANDS. There are some Senators who wish to ask me questions, and I shall be glad to answer any questions.

Mr. CULLOM. I wish to know whether the Senator desires his joint resolution to remain on the table or whether, as a member of the Committee on Interstate Commerce, he is willing to have it referred to that committee for consideration there?

Mr. NEWLANDS. I intend ultimately to have it referred to that committee, but I think it would be well to keep it upon the table for the present as a matter of discussion, because I think the discussion here would elucidate the whole question.

Mr. BEVERIDGE. I wish to say to the Senator from Illinois that I intimated when I rose that if the Senator from Nevada was about to conclude his remarks, and the debate was not going to be continued very long, I had no desire whatever to shut him off in the midst of his speech. I would be very glad to suspend the regular order temporarily in order that he might proceed, but the reason of my objection, I stated to the Senator from Maryland, that it looked as though this debate was going to be rather interminable, and therefore we had better take up the regular order and finish the bill. But if the Senator thinks it will not be long before he will be through with his address I shall be very glad, indeed, to consent to the suspension of the regular order that he may conclude.

Mr. GORMAN. I trust the Senator from Indiana will without any hesitation agree to my suggestion. I do not know that I have ever known a case where such a request was made that it was not instantly complied with. It would be inconvenient to the Senate and to the Senator from Nevada to postpone his further remarks until 1 o'clock to-morrow, and besides the rule of the Senate is plain. The Senator would go on in all probability to-day, and he ought to go on and conclude his remarks even if the statehood bill were pending.

Mr. BEVERIDGE. Very well.

Mr. GORMAN. It is a mere matter of comity, and I trust the Senator from Indiana will observe what we have always observed in the Senate, by allowing the unfinished business to be taken up and then temporarily laid aside.

Mr. BEVERIDGE. I wish to say to the Senator from Maryland that of course my stay in the Senate has been but momentary compared with his long and distinguished and useful stay here, but I myself have seen instances where exactly this request was made and not complied with. I simply say if this is to be an interminable thing I would not want to yield for it, but if it is to end soon I shall be very glad indeed to yield.

Mr. NEWLANDS. I will inform the Senator that I shall take only a few minutes more. I should like to reply to the Senator from Wisconsin.

Mr. BEVERIDGE. Upon that understanding I will be very glad indeed to consent that the Senator shall conclude his remarks.

Mr. NEWLANDS. I have not completed my statement. I judge that there are a number of Senators on the floor who would like to question me with reference to the various suggestions I have made, and I should like to have the opportunity of replying to them.

The PRESIDING OFFICER. The pending statehood bill will be temporarily laid before the Senate, as it becomes the duty of the Chair to place it before the Senate. The Senator from Maryland requests that it be temporarily laid aside. Is there objection?

Mr. BEVERIDGE. I consent to that with the understanding as I have given notice, that we shall complete the reading of the statehood bill to-day. That is all.

The PRESIDING OFFICER. The Senator from Nevada will proceed.

Mr. NEWLANDS. Mr. President, I suggested to the Senator from Wisconsin that if this act were passed it would take effect by partially driving and partially coaxing the railroads into a national corporation. As to driving, that could be done by depriving railroads not incorporated under the national act of the power of engaging in interstate commerce. You will recollect that when the national banks were incorporated the banks of the country were practically driven into national incorporation by a tax imposed upon the currency of the State banks, and I think there are other precedents for such action.

#### BENEFIT TO EXISTING RAILROADS.

Now, as to coaxing, I believe that the great systems which are now organized can not be satisfied with existing conditions. I believe that in many cases in working out the practical evolution of railroading, which I think has been in the main beneficial to the country, they have evaded the law and have broken the law. I believe that many of the consolidations now existing and operating without injury to the country are unlawful, and I believe that the railroad operators know it.

There has been a gradual change in the whole system of management of the railroads in this country. Forty or fifty years ago there were great frauds in the construction of railroads, frauds upon the public and frauds upon the stockholders. The era of frauds in construction has almost passed away. At another time there was an era of fraud in the management of railroads when the directors were the worst enemies of the stockholders, and plundered the very properties that were intrusted to their charge. That era has for the most part passed away.

So far as the relations between the directors of the railways of the country and the stockholders are concerned, there is practically no complaint today. The whole operation of the railways of the country has been lifted up to a higher moral plane so far as the relation of the directors and stockholders is concerned.

But, so far as the public is concerned, we have this system of rebates and discriminations—discriminations for or against communities, discrimination for or against individuals, rebates given to individuals and to favored interests. Many of these discriminations and rebates are absolutely forced upon the railways themselves. Some of them doubtless are voluntary, inspired by stockholders who are interested in these great trusts and combinations and who seek through their power in transportation companies to secure favored rates. But in other instances the railroads are the victims themselves of the men who desire these rebates and discriminations.

A great trust, taking two competing lines from Chicago to San Francisco, can so juggle its negotiations with those two railroads as to make each of them apprehensive that it will lose the trust's business, and the very competition forced upon them by the law makes them seek to get the business, and to seek to get the business in the ordinary business methods by giving some advantage. That is what competition means in all other business. It means giving a better rate or a better material to the purchaser, and in this country the giving of a better rate is absolutely forbidden by law. The giving of a better service possibly is not to the same extent forbidden by law.

So it is that many of the traffic managers of the country are the victims of the great trusts and combinations which are seeking by juggling with the transportation system to get an advantage over their competitors.

Now, it seems to me that the gentlemen in the direction of railroads who are honestly administering them in the matter of construction, who are honestly administering them in the matter of operation, and who are honest in their relations to the stockholders, may be credited with some desire to get upon an honest plane with the public itself, and I believe that we should expedite them in that aspiration if they indulge it.

Besides that, I believe this system is injurious to them. They know it is going to result in a storm of popular indignation that will lead to agitation in this country, resulting in an increase of taxation and resulting in blows being administered by the public to them wherever blows can be given.

So it seems to me that they, as rational business men, ought to desire some scientific adjustment of this question, resulting in having their taxes mathematically adjusted by the law, and not subjected to the complications of thousands of assessing officers and fifty or more assessing bodies throughout the entire country, and resulting in one valuation by a tribunal of character and dignity, and resulting in one determination of the rate of interest as a return on such valuation.

#### CONSTITUTIONALITY OF NATIONAL TAX.

Mr. BACON. Will the Senator permit me to ask him a question right in that direct connection, which brings back the inquiry I desire to make of him? The fundamental proposition of the Senator is that in order that the proposed system may be made effective there shall be the exemption of these private corporations, chartered by the Federal Government, from liability to State taxation. I understand that to be the Senator's proposition.

Mr. NEWLANDS. I do not regard that as essential, but I think it would make the whole system much more effective and satisfactory both to the public and to the railroads.

Mr. BACON. I understood the Senator to go to the extent of saying that the exercise of such a power by the States would involve the power in a State to destroy. If that were the case it is certainly essential. Now, the inquiry I desire to pro-



pound to the Senator upon that proposition is this: The railroads are properly and essentially property located within a State. It is a part of real estate. If the States can not impose a State tax, and if a tax is imposed by the General Government it is necessarily a direct tax and not an indirect tax.

The question I desire to propound to the Senator is this: Whether, in the first place, the State could impose a direct tax which would cover railroads and not relate to other property; and, in the second place, whether there would be any possibility of imposing a direct tax by the Federal Government upon that species of property, or any other species of property within a State, and complying with the requirements of the ninth article of the Constitution, which is in these words:

No capitation or other direct tax—

This is a limitation upon the powers of Congress—

shall be laid, unless in proportion to the census or enumeration herebefore directed to be taken.

That is the inquiry I desire to propound to the Senator; and in that the further inquiry whether, if such a tax could not thus be laid, the scheme of the Senator would not necessarily involve the entire exemption of those private corporations from any taxation, either State or Federal?

Mr. NEWLANDS. I will state to the Senator that the tax which I would impose would not be a direct tax; it would be in the nature of a franchise tax, measured by the gross receipts of the corporation; and I have no doubt that that could be shaped in such a way as to avoid the objection of direct taxation, which is, of course, forbidden by the Federal Constitution.

Mr. BACON. If the Senator will pardon me—

Mr. NEWLANDS. I want to call the Senator's attention in this connection to the war-revenue act, which fixed a tax upon oil refineries and sugar refineries—a tax of one-eighth of 1 per cent upon their gross receipts over \$250,000. That tax went into effect; it was paid for years until the law was repealed, and I never heard it questioned. I believe there are other taxes of that kind which have been imposed by the revenue laws of this country. I think that in the war-revenue law the Senator will find precedents for such a tax as I would impose here. A license or franchise tax measured by the gross receipts is quite a distinct thing from a direct tax upon the property itself.

Mr. BACON. The Senator, then, would recognize the fact that so far as the tax upon the property itself is concerned it may either be imposed by the State or not at all?

Mr. NEWLANDS. Or not at all.

Mr. SPOONER. Mr. President, I was not aware until this joint resolution was read that any such proposition was pending in the Senate. I have had no desire to involve my friend from Nevada in any elaborate discussion at this time. I have put my questions to him in no spirit of controversy. I want to finish, if I may, in a very few moments the line of thought which I was intending to follow when I was interrupted.

There is nothing clearer in the world than that essential instrumentalities of the Government are not subject to taxation by the States—are not subject to regulation by the States. The Senator is quite right and it was said in *McCulloch v. Maryland* that the power to tax involves the power to destroy. The power on the part of a State to impede in any way purely and confessedly governmental instrumentalities and functions would be intolerable.

In the same way some of the functions of the State are entirely beyond the power of Congress to impede or embarrass. There is this imperium in imperio. The States, within certain limits, have always been supposed to be supreme, just as the Federal Government, within certain limits, is and must be supreme. It is not in the power—although the power of taxation given by the Constitution is very broad—of the Federal Government to tax the judicial processes of the States. Otherwise it might destroy them and impede the administration of justice within the boundaries of a State. That can not be done.

The trouble with my friend is that for the moment—he never confuses anything long in his mind—but for the moment in this discussion he confuses, it seems to me, instrumentalities that are governmental with instrumentalities created by Congress which are not strictly governmental in function. Whether the Government may build and operate railways between the States for a purely governmental purpose is an abstraction, because no such thing is proposed by the Senator. There is no such proposition in this joint resolution as that the Government shall engage in the construction and operation of railways, but if the Government built a railway for governmental use from one State into another in its governmental uses it would not be subject to interference by the State, but the carrying of commerce within the State from point to point for hire

the Senator would not say is a governmental function. But let that go, and let us come back to what is proposed here.

The Senator was referring to the Union Pacific Railway Company, a Federal corporation. I had referred to the Northern Pacific Railway Company, which was a Federal corporation, an instrumentality which the Supreme Court has held Congress may create under the commercial power of the Constitution. Now, will the Senator say that by reason of the mere fact that the Northern Pacific Railway Company was a Federal corporation within the constitutional capacity of Congress to create, lawfully endowed with power to construct, maintain, and operate a railway from State to State through many States, the State of Montana was, because of the Federal characteristic or origin of the corporation, deprived of the power of regulating the commerce carried by that corporation and the charges exacted by it on commerce originating and ending in the State of Montana; and if in Montana, of course in all the States between the Great Lakes and the Pacific? Will the Senator seriously project the proposition, and stand sponsor for it, that in this way the State can be deprived of the power to regulate commerce within the State?

Mr. BACON. And taxes within the State.

Mr. SPOONER. That is another thing—commerce within the State. Would the Senator from Nevada say, if the Southern Pacific Railway Company were a Federal corporation, that as to commerce originating in California and ending in California, the State of California would have no power to regulate the charges of that corporation so as to protect its people against oppression by that corporation as to purely intrastate commerce? Would the Senator say that Congress has the power by any provision incorporated in the charter of a Federal corporation, authorized to build and operate railways from State to State, to take away from the State its power over purely State commerce?

Mr. NEWLANDS. Does the Senator desire an answer?

Mr. SPOONER. Yes; I should be glad to have an answer.

Mr. NEWLANDS. I will state to the Senator that as to the power of regulating intrastate commerce my proposition does not involve the taking away of that power from the State. It can exercise that power over corporations organized by that State and doing business in that State; it can exercise that power with reference to corporations organized by the United States under a national incorporation act, unless in the incorporation act there is a declaration that that power shall not be exercised so far as the Government instrumentality is concerned. It leaves the power still existing, but it simply provides that that power shall not be exercised as to the property of the National Government or as to the instrumentality created by the National Government.

It is true that in the case of *McCulloch v. Maryland*—

Mr. SPOONER. Does the Senator, then, say that the power now exists, but can not be exercised?

Mr. NEWLANDS. I contend that if the power of regulation involves the impairment or impeding the operation of a Federal agency or of property that belongs to the Government—

Mr. SPOONER. Mr. President—

Mr. NEWLANDS. Now, just let me go on a little further.

I will state to the Senator that this question is not without doubt, and I hope I have not stated it so positively as to give the impression that the matter is absolutely settled either by the courts or in my own mind. This is a question that requires discussion, and I am very glad we are having it.

#### THE DECISIONS.

But let me refer the Senator now to the decisions upon this question. In the case of *McCulloch v. The State of Maryland* the Supreme Court determined that the State of Maryland could not impose a tax upon the notes of the United States Bank in Maryland because that involved the destruction of one of the instrumentalities of the Government for the carrying out of the governmental power. The notes were property just as a railroad is property, and yet the court held that under the implied powers of the Constitution, namely, those powers which are essential to carry out the powers expressly conferred, the State of Maryland could not, in the exercise of its taxing power, tax those notes. It paralyzed the arm of the State when the State in any way reached out for that form of property.

It is true that in that case Chief Justice Marshall said that so far as real property was concerned the exemption would not apply, for instance, as to the bank building, for he contended that that was not essential to the operation of the bank. They could get another bank building; they could lease property and conduct their business upon it, and therefore real property did not come within the implied powers of the Federal Constitu-



tion as to the protection of a Federal instrumentality from destruction aimed at it by a State.

Extending the argument in that line, the case of the Union Pacific Railroad comes to my mind. In that case it was contended that the railroad was absolutely exempt from State taxation simply because it was incorporated under a national act for the purpose of carrying out the powers conferred by the Federal Constitution upon the General Government with reference to the mails, with reference to military defense, and with reference to the regulation of interstate commerce.

In that case the court, by five to three, determined that the railroad was not exempt; that there is a distinction between the powers conferred upon the instrumentality and the property owned by that instrumentality; that there is a distinction between the operations of the agent of the National Government and the property owned by that agent. And yet, if you analyze the decision, you will find that one of the judges—Justice Swayne, I believe—one of the five, in his concurring opinion, simply stated that it was clear that the Federal Government did not intend to exempt this property, and that in the absence of an express exemption the property was taxable by the State. So that reduced the majority opinion to four. The three dissenting judges held, not only with Justice Swayne, but they went further, and held that the railroad property, the track of the railroad, was absolutely essential to the operation of a Federal instrumentality; that it was not to be regarded simply as real property, such as the bank building owned by the United States Bank was to be regarded, but the track itself was the agency through which the powers were exercised, and that, therefore, it was impliedly, under the implied powers of the Constitution, exempt, though the exemption was not expressed by an act of Congress. So that three judges took that view and Justice Swayne took the view that it must be expressly exempted. So it is evident if that case had presented the case of an express exemption by the Federal Government of that railroad from local taxation the decision would have been four to four.

It is, therefore, an unsettled question, to be fought upon principle, and I insist upon it that the principle laid down in the case of *McCulloch v. Maryland* applies to this case; that if you can not permit a State to tax the powers of an instrumentality of the Federal Government—the powers conferred upon an agent of the Federal Government by the Federal Government—you can not tax the property that is absolutely essential to the execution of those powers, and that if the exemption is expressed in the statute, if it is clearly the intention of the Federal Government that the property shall not be impeded or harassed, it is exempt from State taxation. There are certain rights that can be waived by the Federal Government. In such case the Federal Government can waive the exemption from taxation, if it chooses to do so, by silence, and can submit that property to the taxation of a State; but if, by statute, it expresses the intention that the property shall be exempt, it is quite a different matter.

Mr. MALLORY. Mr. President, will the Senator permit me to ask him a question?

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Florida?

Mr. NEWLANDS. Certainly.

Mr. MALLORY. I should like to inquire, in order to understand the Senator's position, if he contends that the transportation of merchandise, goods, and wares across State lines from one State to another is a governmental function—in other words, is interstate commerce a governmental function? It strikes me that that is a very important question in this discussion, because the powers which the Senator seems to claim for the General Government are powers that are dependent, I think, entirely upon the General Government exercising the governmental function.

Mr. NEWLANDS. I do not know that that question has ever been determined, but I should conclude that the ruling of the court would be that the term "power to regulate interstate commerce" would include the power to enter into interstate commerce.

Mr. PLATT of Connecticut. To take possession of it exclusively? Is that the Senator's idea?

Mr. NEWLANDS. Yes; so far as transportation is concerned.

Now, I will just say a word more on this question. I am aware that some of my Democratic friends may take issue with me upon it, for all Democrats are inclined to adhere strictly to the reserved powers of the States.

Mr. BACON. If the Senator will pardon me, I want to express my gratification that some of the Republicans are taking this view.

Mr. NEWLANDS. But I wish to say that I think it just as Democratic to fully carry out and insist upon the full exercise of a national power as it is to insist upon the protection of the powers reserved to the States; and I believe that you will find from an examination of the authorities that these words "power to regulate interstate commerce" have been given a very broad significance, involving not only the power to regulate, but the power to create the instrumentality that is to enter into interstate commerce.

The PRESIDING OFFICER. What disposition does the Senator desire made of the joint resolution?

Mr. NEWLANDS. I ask that it lie on the table. I also ask permission to insert in the RECORD three pages of the hearing before the Senate Interstate Commerce Committee on December 16, 1904, pages 11 to 13, inclusive, containing the examination of Mr. Bacon.

The PRESIDING OFFICER. In the absence of objection, the request of the Senator from Nevada will be granted.

The matter referred to is as follows:

Senator NEWLANDS. Are you a lawyer yourself?

Mr. BACON. I am not a lawyer; I am a business man.

Senator NEWLANDS. Are you familiar with the rules the courts have laid down as to the determination of what shall be a just and reasonable rate?

Mr. BACON. I have followed the cases to some extent as they have arisen under the workings of the interstate-commerce act.

Senator NEWLANDS. I am not very familiar with them, but I understand that they have determined that a rate must be reasonable and not oppressive, and that you must have in view a return upon the capital that has been invested.

Mr. BACON. The Supreme Court has specifically decided that the revenues of a railroad company must be sufficient to afford a fair return upon the actual capital invested.

Senator NEWLANDS. Have these decisions ever determined what a fair return, in the shape of interest, shall be?

Mr. BACON. Each particular case has been taken up individually and considered on its own merits, and no definite percentage of interest or return upon the money invested has been indicated by the court as proper and right, so far as I have observed, but the court has decided that point in a general way—that it must be a fair return on the investment. That is something that may vary in different years.

Senator NEWLANDS. Has any court, to your knowledge, ever laid down a rule for determining the capital or value upon which the fair return, in the shape of interest, is to be computed?

Mr. BACON. No rule has been laid down, but different processes have been pursued in determining the cases before the courts—sometimes one method, sometimes two or three combined; but no rule has been laid down.

Senator NEWLANDS. Take, for instance, a continuous system of railways extending from the Atlantic coast to the Pacific coast, embracing perhaps as many distinct railroads as there are States through which it passes, each one of these railroads being subject to control by a local commission as to domestic rates, and also being under control by the Interstate Commerce Commission as to interstate rates: I ask how would it be possible, in each individual case before the Interstate Commerce Commission under this act, to determine the effect of a given rate upon the capital or value invested in each of these roads?

Mr. BACON. A case might be very complicated, as you suggest; still, it is not beyond human wisdom to arrive at a satisfactory conclusion. It may involve considerable time and the consideration of many figures, but it is not beyond human capacity, certainly.

Senator NEWLANDS. Do you not think that with the number of cases before the Interstate Commerce Commission, involving both classifications and specific rates, and also with the number of cases that may be under consideration before each one of the local commissions as to domestic rates, there would be considerable confusion as to whether or not a proper return upon capital or value could be had as a result of these changes?

Mr. BACON. I do not think there would be any difficulty of that kind. The cases are easily susceptible of solution with proper time and consideration to be given them. But it is my judgment that with this authority conferred upon the Interstate Commerce Commission it would operate very fairly toward the prevention of the exaction of discriminatory or unreasonable rates.

Senator NEWLANDS. We all agree that that is what we want to have accomplished. The only question is as to the method.

Senator QUARLES. It would have to be worked out by the courts.

Senator NEWLANDS. Yes; but in these cases we would have perhaps ten different circuit courts operating at the same time in suits instituted by each one of these railroads, incorporated under the laws of different States, and each one of them complaining of a particular interstate rate fixed by the Interstate Commerce Commission. It strikes me that this would be likely to produce a great deal of confusion. If we could simplify this whole system, it would certainly be of great advantage.

Let me just suggest a line of thought I have been pursuing for some little time on this subject. It involves a radical change in existing conditions, but it seems to me that if it can accomplish good we ought gradually to reach out for it. It is this: We have here, say, 2,000 different railroads in this country—

Mr. BACON. Only about 600 operating railroads, however.

Senator NEWLANDS. Only about 600 operating railroads. A great many of these operating roads are classified and combined into systems, so that practically it may be said that eight or ten systems of railroads control all the mileage of the country. That is accomplished either through leases or holding companies or through traffic arrangements. As a matter of fact, however, we have this large number of corporations—although only 600 operating railroads, as you say—and these railroads are so unified that no more than eight or ten systems control them all.

Mr. BACON. Substantially, yes.

Senator NEWLANDS. That being the case, that being the evolution of railroading, why is it not well to recognize that fact and bring them under control?

Mr. BACON. That is just what we are seeking, Senator.



Senator NEWLANDS. Let me suggest right there, would it not be well for us, then, to frame a national incorporation act for interstate commerce, under which these various railroads now consolidated under one management—by devious devices that no one understands—can be incorporated, so that we shall have one capitalization fixed by the Interstate Commerce Commission or by the courts, and one system of rates to act upon, as well as one system of taxation to act upon? It seems to me that the evil of the present system is that, whilst the Supreme Court has determined that there must be a fair return upon value or capital invested, yet you can have as many valuations fixed as there are States, and you can have as many rates of interest fixed as there are States, according to conditions.

Then, upon the question of return; this return must be found after operating expenses and taxes are paid. And yet, under existing conditions, we can have forty-five different systems of taxation, each of them variable according to the judgment of a legislature or according to the caprice of assessing bodies.

It strikes me if we could have a national incorporation act for purely interstate commerce and permit consolidation of these great corporations with a capitalization fixed by law or judicially, and then provide for a percentage tax upon gross receipts absolutely in lieu of all other taxes—national, State, county, or municipal (regarding these corporations as national machines for interstate commerce, the National Government would have the constitutional power to exempt them from State or local taxation)—and then provide that that tax shall be distributed by the United States among the various States according to some fair rule of distribution—according to trackage or volume of business—we would then fix absolutely the rate of taxation by one law, and that at the same time no State would be deprived of its revenue.

Thus upon this question of operating expenses and taxes we would secure certainty as to taxation, at all events.

The next step would be the fixing of the proper return upon capital invested. This law could fix the percentage of dividends to be allowed—whether 4 per cent, 5, 6, or 7 per cent, whatever it may be—and it could vary that return according to the degree of risk involved in the enterprise, etc., or it could leave the question of interest as a return on capital to the decision of the Interstate Commerce Commission or to the courts.

Those things being fixed with absolute certainty (the taxes to be paid to the Government and the dividends paid to the operators), then you have remaining only the question of operating expenses, and it seems to me you would then have one body that would fix these rates and you would not be subject to the varying judgments of forty-five different commissions and forty-five different courts. What do you think of that, Mr. Bacon?

Mr. BACON. That is a very comprehensive plan, Senator, and there is much merit in it, but it will take many years to work that out in legislation.

Senator TILLMAN. I want to suggest to my friend from Nevada that he put this statement in the RECORD, for it is the most magnificent generalization that has ever come before me. So I hope he will repeat this statement in the Senate Chamber, because it will be lost to the public unless put in the form of a speech in the Senate on this general subject.

Senator NEWLANDS. It will be in the record of the proceedings of this committee to-day, but I should like Mr. Bacon and his associates to look into that question; for while we may pass something of this kind as a temporary measure, I do not believe it will work satisfactorily as such. It strikes me that the minds of the shippers, as well as of the legislators of the country, ought to be directed to some plan of unifying and simplifying the entire railroad system of the country.

Mr. BACON. That is entirely worthy of consideration with reference to the future, but it will take a long time to work it out. But here we have before us a very simple plan which has been evolved during the discussions of five years in regard to this class of legislation, and it seems to me that it would not be best now to take up any such comprehensive and general plan. Senators may work it out for themselves.

Senator FORAKER. You would not indorse the plan suggested by the Senator from Nevada?

Mr. BACON. Not on the moment's consideration. I am very glad, however, to have that suggestion.

Senator FORAKER. So am I, but I should want to give it further consideration.

#### EXHIBIT "A."

UNITED STATES SENATE COMMITTEE ON INTERSTATE COMMERCE,  
January 16, 1905.

#### ADDITIONAL STATEMENT OF MR. EDWARD P. BACON.

Senator NEWLANDS. Mr. Bacon, I understand your position to be that you would like this bill (the Quarles-Cooper bill) passed, but you propose to follow it up by measures to be urged hereafter, with the expectation in the end to reach a scientific and comprehensive plan covering whatever is best in the way of railway legislation.

Mr. BACON. That is my idea exactly.

Senator NEWLANDS. I desire to question you a little about such a general and comprehensive plan, not with a view to delay the consideration of this particular bill, but with a view to seeing whether this bill, if it should pass, will fit into the general plan.

Mr. BACON. It is the groundwork of the plan.

Senator NEWLANDS. I questioned you the other day when you were before the committee regarding a plan that I had in mind for unifying and simplifying the railway systems of the country through a national incorporation law.

Mr. BACON. I was very much interested in it.

Senator NEWLANDS. That plan involved the valuation of the railroads by the Interstate Commerce Commission; a fixed percentage upon gross receipts, so that taxes would be certain, such taxes to be distributed among the States, and a return to the stockholders of not less than 4 per cent on the valuation fixed by the Commission, so as to make dividends certain, thus leaving the profits from any increase in business to go largely to the betterment of the roads, the increase of wages, or the reduction of rates. Now I desire to ask you whether you have thought over than plan at all since you were here last.

Mr. BACON. I have read your remarks on that subject in the Senate with a great deal of interest, and I can say that they meet my hearty concurrence, and that great good will come from it if it can be worked out. But, as I said before, when you were interrogating me before the committee, it will take time to accomplish it. However, it is a good thing to have it under consideration, and I think the more it is studied and considered the more it will commend itself to the minds of those who study it. But it will take a long time to bring it about.

#### MIDSHIPMEN IN THE NAVY.

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying paper, referred to the Committee on Naval Affairs, and ordered to be printed:

To the Senate and House of Representatives:

In the fall of 1903 John Henry Lofland, Earl Worden Chaffee, and Joseph Drummond Little, then members of the first or highest class at the Naval Academy, severally committed acts for which they were charged with the offense of hazing, were tried by court-martial, and were dismissed from the academy and from the naval service.

In a letter addressed to the chairman of the Committee on Naval Affairs of the House March 21, 1904, the Secretary of the Navy, after reviewing the facts upon which action in the cases of these midshipmen was based, states that "if discretion in the infliction of punishment had been vested either in the court-martial or the Department a lighter punishment than dismissal from the service might have been inflicted," and concludes that Congress is the proper authority to determine in cases of this character whether exception should be made to the operation of the statute.

The Committee on Naval Affairs (H. R. No. 2554, 58th Cong., 2d sess.), upon consideration of the Department's report, unanimously concludes that "under all the circumstances no detriment will be done the service" by sanctioning the appointment of these midshipmen to the naval service under appropriate conditions and restrictions.

Upon review of the facts in this case I concur generally in the conclusions of the Secretary of the Navy and the Committee on Naval Affairs with respect to the character of the offenses committed by these midshipmen. Their acts were in plain violation of the letter of the statute, but the case presented is not an aggravated one, and I believe that their severance from the academy, their reduction to the foot of the class of which they were members, and their entry into the naval service without formal graduation will be adequate punishment.

The draft of a bill granting authority for the appointment of these midshipmen to the Navy under conditions and restrictions believed to be sufficient to guard the interests of the service is inclosed for the consideration of the Congress.

THEODORE ROOSEVELT.

WHITE HOUSE, January 11, 1905.

#### STATEHOOD BILL.

The PRESIDING OFFICER. The unfinished business is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. BEVERIDGE. Mr. President, I call the attention of the Senator from Ohio [Mr. FORAKER] to the first committee amendment, which was reconsidered yesterday at the Senator's instance—the amendment on page 4, line 9, striking out the words "a majority vote of." The Senator asked that that amendment be passed over until he had examined it.

Mr. FORAKER. I asked that it might be—

Mr. GORMAN. From what print is the Senator from Indiana stating the amendment?

Mr. BEVERIDGE. I will say to the Senator that it is on page 4, line 9, to strike out the words "a majority vote of." The amendment was passed over, but, unfortunately, the Secretary, in sending the bill to the printer, included the amendment as though it had been agreed to. It was not agreed to.

Mr. GORMAN. In what print is it?

Mr. BEVERIDGE. On page 4 of the print on the Senator's desk.

Mr. FORAKER. Mr. President, I asked that the action of the Senate in adopting the committee amendment referred to while I was out of the Chamber might be reconsidered, not that I wanted to make any contest over the proposed amendment reported by the committee, but only that some gentlemen who were here in the interest of statehood from the Territory of Oklahoma might have an opportunity to be heard. They had communicated with me in regard to this matter. The provision as it came from the House was more satisfactory to them and they hoped that the Senate committee would not insist upon that amendment.

I have no disposition to interfere with the details of this bill, They belong to the committee, and I do not, as Senators generally do not, ordinarily interfere with anything that is a mere detail. I would think, on first impression, that the whole matter of determining where the capital should be located should be left entirely to the State, beyond fixing a temporary capital for purposes of organization.

Mr. BEVERIDGE. That was the committee's idea, I will say to the Senator.

Mr. FORAKER. What particular reasons there may have been that influenced the committee to make this amendment I do not know. I have learned since I have had the objection to the committee's amendment presented to me that there are



others here who take a different view of it. And so it is one of these matters which the committee must necessarily determine. I do not know the merits of it.

Beyond calling attention to the fact, therefore, that there is a difference of opinion about it, and requesting of the committee the careful consideration which I know the committee will give it, now that their attention has been called to it, if they have not already done so, I am content to leave the matter as the committee may see fit to recommend.

Mr. BEVERIDGE. I will say to the Senator from Ohio that the committee did give this particular amendment very careful consideration indeed, and that the consideration which influenced the committee to make the amendment was exactly the consideration which the Senator from Ohio stated, to wit, that it was better to leave it to the legislature of the State to determine upon the kind of an election and the other requisites of fixing their own capital rather than to fix it permanently ourselves, which the House bill does by a device of words.

So I understand the Senator from Ohio does not make any objection to the committee amendment, and I ask that it may be agreed to.

Mr. BATE. Mr. President, there are several citizens here to-day from Oklahoma, who have been to see me in regard to this matter. They seem to be very firm in their conviction that rather an injustice has been done to Oklahoma City, particularly in this matter.

Mr. BEVERIDGE. To whom, may I ask the Senator, has the injustice been done?

Mr. BATE. An injustice to themselves as citizens of Oklahoma City.

Mr. BEVERIDGE. Have they complained of this?

Mr. BATE. Wait a minute. There is, I understand, a contest between Oklahoma City and Guthrie, and these gentlemen do not desire the matter left in the shape it is, but they want it to go before the people and to let a majority of the people decide the matter. It now reads:

By a majority vote of the electors of said State voting at an election to be provided for by the legislature.

They want it done without the intervention of the legislature, as I understand. I do not know what moved the committee in this regard. I did not hear the discussion in the committee, as I remember, but I know there is a contest between these two places in regard to where the capital shall be, and I want each to have just and fair treatment.

Then, again, they object to the length of time, if I understand it, that the capital shall be located at Guthrie.

That the capital of said State shall temporarily be at the city of Guthrie, in the present Territory of Oklahoma, and shall not be changed therefrom previous to A. D. 1910, but the location of said capital may, after said year, be permanently fixed by a majority vote of the electors of said State voting at an election to be provided for by the legislature.

I understand that the words "a majority vote of" have been stricken out, and that is the cause of the contest now.

These gentlemen represent that great injustice has been done to Oklahoma City; that it is three times as large, or about that, as Guthrie; and that they ought to be heard in regard to the matter, or that they were not heard to their satisfaction, before the committee. As I understand them, they want this period lessened from 1910 to 1908, for as it stands now it gives Guthrie the advantage of having the capital there for four years longer than it should be. It gives it that much advantage of the other cities, and Oklahoma City claims to be three times as large as Guthrie. I do not know the politics of either city. It has nothing to do with the question. There is a feeling about it, and I hope that this matter will be left until we can get satisfactory evidence and do the just and fair thing. That is all I ask.

Mr. BEVERIDGE. The Senator from Tennessee may have the correct understanding, but if he has, I have exactly the wrong one, because my understanding is precisely the reverse, as to the facts, of the understanding of the Senator from Tennessee.

Mr. BATE. In what respect?

Mr. BEVERIDGE. In respect to the whole matter. Also, it will become apparent that the Senator has not the contention of the citizens of Oklahoma City or any other city exactly accurate in his mind, for the reason that if the language of the House bill remains as it is neither Oklahoma City nor any other city in the Territory has the slightest chance of ever becoming the capital as against the present capital. It was in order that all might have a chance, or that the legislature itself might say whether a majority or a plurality should prevail, that the words "a majority vote of" were stricken out.

If you fix the capital at Guthrie or any other place, as this

bill does, and then say that it may be changed only by a majority vote, it becomes perfectly clear that if there are in the field three or more candidates for the capital no one of them could have a majority, and, therefore, by a mere device of words, we would fix the capital permanently at a place and deny to the people of the State themselves an opportunity of locating it elsewhere or contesting it in the future.

That is the practical result, and that was the reason why the committee, after very patient and careful consideration of this subject, after hearing, I will say to the Senator, from various portions of the country, fixed it as we did. A large number of gentlemen from Oklahoma City have been to see me, and not one of them has contended for the contention presented by the Senator from Tennessee. Indeed, it was in the interest of the whole Territory instead of a special and particular locality that the words "a majority vote of" were stricken out, and it was in order that the legislature itself, as the Senator from Ohio says, might determine what kind of an election should be held that this was done.

If the amendment of the committee is adopted, as I shall insist that it be, then it is for the legislature to say whether, when they come to settle the question of the capital, it shall be done by a majority vote or a plurality vote or what. But if the language of the House bill be adopted, then it is fixed forever at Guthrie by a mere device of words. So the Senator from Tennessee hardly gets the contention of Oklahoma City correctly.

Mr. BATE. Then, Mr. President, I have been imposed upon by some very respectable gentlemen, one of whom I know personally. They would like very much, if it is consistent with the ideas of the Senator from Indiana, representing the committee, to have the word "ten" changed to "eight." That would give them an opportunity by four years to compete in the end more thoroughly with their rival city. That is the whole of it, sir.

Mr. BEVERIDGE. The trouble about that is if we give Guthrie everything she wants she would fix the capital there permanently. If we give Oklahoma City everything she wants she would, no doubt, fix the capital there permanently. If we give Muscogee everything she wants, no doubt she would fix the capital there. That is the precise difficulty with which this committee has dealt with in striking out these objectionable words.

No person from Oklahoma City or any place else suggested that the capital question should be precipitated on that new State within two years after it becomes a State. This was done in the interest of all, and in order that no particular locality might have an unfair advantage by reason of a device of words, and that the people of the State, through their own legislature, should say how an election should be held and what kind of an election. That is all.

The Senator from Tennessee is mistaken, or else I am.

Mr. BATE. Mr. President, there is evidently a controversy, and a very earnest one, in regard to where the capital should be located. There are representatives here from both of these cities, and I have heard from one side and the Senator from Indiana from the other. But I understand from those for whom I speak that all they want is simply an equal chance with the other cities.

Mr. BEVERIDGE. I will say to the Senator that that is precisely the object of the amendment of the committee.

Mr. BATE. Now, they think that equal chance is denied them because the other city is made the capital until 1910, or virtually until 1912, after the next census. They are to have the capital there by the action of the Senate for so many years. They would like to see it changed to 1908. That would be a compromise.

Mr. BEVERIDGE. That has nothing to do with the pending committee amendment.

Mr. BATE. That is what they want—that the word "eight" be put in there instead of "ten."

Mr. BEVERIDGE. That has nothing to do with the committee's amendment. The Senator can offer that amendment, and it will come up like any other amendment. We are now considering the committee's amendment.

What the Senator from Tennessee suggests has nothing to do with this amendment.

Mr. BATE. I am apprehensive that when this proposition is submitted it will be said that it has been settled by virtue of the Senate having agreed to this amendment.

Mr. BEVERIDGE. Oh, no; the Senator can present his amendment at any time.

Mr. BATE. If it is left open, it is all right.

Mr. BEVERIDGE. The amendment of the committee, to strike out the words "a majority vote of," has nothing to do with the suggestion the Senator from Tennessee makes about

reducing it from 1910 to 1908. If the Senator wants to move that amendment, he can do so.

Mr. BATE. There will be no trouble about that.

Mr. BEVERIDGE. Then let the amendment of the committee be adopted.

The PRESIDING OFFICER. Does the Senator from Tennessee move to amend the committee amendment?

Mr. BEVERIDGE. No.

Mr. BATE. If I can offer the amendment subsequently, my point will be gained, and there is no reason why I should do it now.

The PRESIDING OFFICER. The Chair understands that the Senator from Tennessee is privileged to offer the amendment at any time.

Mr. BEVERIDGE. Certainly.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. BEVERIDGE. The next amendment which has been passed over is on page 5, beginning in line 8 and concluding in line 15, to which I call the attention of the Senator from Maryland [Mr. GORMAN].

The PRESIDING OFFICER. The amendment reported by the Committee on Territories will be stated.

The SECRETARY. On page 5, after the word "prohibited," in line 6 of section 3, it is proposed to insert:

*Provided, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.*

Mr. CLAY. I should like to ask the Senator from Indiana a question. I see that in line 7 it says that the giving of intoxicating liquors to Indians is forever prohibited.

Mr. BEVERIDGE. Yes; that is the language of the House bill.

Mr. CLAY. And the amendment provides:

*That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.*

I desire to ask the Senator, taking together the two clauses I have read, does the section mean that the sale of intoxicating liquors is forever prohibited and the sale of liquor to other persons residing within the Territory after ten years shall be left to the legislature of the State?

Mr. BEVERIDGE. Yes.

Mr. CLAY. Then so far as the Indians are concerned, under the provisions of this bill the legislature could not provide for the sale of whisky to them at all?

Mr. BEVERIDGE. No.

Mr. CLAY. But could provide for its sale to Americans or other persons?

Mr. BEVERIDGE. Yes; after ten years.

Mr. CLAY. I believe we have a treaty prohibiting the Government from pledging itself that hereafter it will prohibit the sale of liquors to Indians.

Mr. BEVERIDGE. No. That is a branch of the same discussion which the Senator had yesterday with the Senator from Minnesota [Mr. NELSON] and the Senator from Nevada [Mr. STEWART]. All of the treaties expire because the tribal relations expire.

Mr. CLAY. We had a treaty—

Mr. BEVERIDGE. I will say to the Senator in explanation of this clause, which I suppose is what the Senator wants—the reasons the committee had for its amendment—that the language down to the proviso is that of the House, and it was put in there for the purpose of carrying out perhaps the moral obligation that was involved in the treaties that had existed heretofore concerning the sale of liquor among the Indians, and also a question of wise public policy, of course, and also, of course, to prevent the sale of liquor among the Indians themselves.

Mr. CLAY rose.

Mr. BEVERIDGE. The amendment was put in for an additional reason, which I will be very glad to give the Senator.

Mr. CLAY. I beg pardon of the Senator. I was going to ask the Senator is it not true that the proviso is unnecessary?

Mr. BEVERIDGE. No.

Mr. CLAY. If the section simply prohibits the sale of intoxicating liquor to Indians and you leave it there and say nothing about other persons residing in the Territory, would not the legislature have the right to deal with it without any proviso?

Mr. BEVERIDGE. Except so far as Indians are concerned.

I will say this to the Senator and the Senate: It was contended, and about the fact of the contention there can be absolutely no question, that if the sale of liquors was permitted among whites and others who live around and among the Indians themselves, in spite of any provision that liquor should not be sold or bartered or given to the Indians, it would nevertheless get to them. It was there; they had the money, and they would, of course, get it; and the result of that would be—about this there is no question either—that we should soon witness the spectacle of the Indians having the liquor and the fellows who sold it having their money, and thus would be precipitated upon this new State a band of impoverished and perhaps dangerous Indians.

Therefore a very eminent gentleman suggested a much longer period of prohibition of the sale of liquor to everybody within this portion of the new State and in Indian reservations than ten years. But the committee, after a very long and careful discussion of this matter and after very long and patient hearings, thought that ten years was a period during which the elements of citizenship there could adjust themselves and get ready for the new conditions, and thereafter the legislature might permit the sale of liquor if it wanted to. In that way you would keep these elements, which would be very liable to become both impoverished and dangerous, prosperous and peaceful, and would thereby induce a better condition in the new State, very much as the Senator from Nevada yesterday described. These were the conclusive reasons for the amendment of the committee, the House provision being ineffective.

Mr. GORMAN. I should like to ask the Senator, merely for my own information, if we are to enter upon restrictions looking to the morals of the people of this new State, why it would not be proper to include the whole territory embraced within the proposed State? Why take a comparatively small section and make this prohibition as to it when there is no trouble about the Indian getting over this imaginary line or division into the remainder of the State and getting all the whisky he wants? Where local option or prohibition has been had in localities or in counties in the States we have found a similar difficulty.

Now, I am in entire sympathy myself, and can afford to be from a personal standpoint, with the prohibition of the use of intoxicating liquors. I myself should be glad to see their use abolished everywhere. But it does seem to me that this is rather a discrimination against a part of this country. Would it not be well to strike out all reference to that part of the State in the Indian Territory and let it apply to the whole State, if we are to go into the prohibition business?

Mr. BEVERIDGE. No, I do not think so. If the Senator is asking me why we confined it to the limited area, I will say we did it because we are confining it to the danger points. We assume that the people of Oklahoma and outside of the Indian reservations being American citizens, being of our own blood and our own capacity for self-restraint, can take care of themselves. But the experience of a hundred years has shown that Indian wards can not take care of themselves. Their desire for liquor, as I say, will soon reduce them both to poverty and to a condition of danger to the community. It is not only a matter of their own preservation; it is not only a matter of the duty which we owe to the wards of the nation; but as I said a moment ago it is a wise provision for the rest of the people. The Senator's suggestion that we ought to extend it over the whole State is answered by the fact that there is no danger over the whole State. So we confine it to the Indian Territory and to the Indian reservations, the rest of the State being peopled by American citizens having, as I say, that capacity for self-restraint which enables them to take care of themselves. It is the genius of our Government to let the people take care of themselves wherever they can.

Mr. GORMAN. Mr. President, of course I understand that the Senator from Indiana is one of the bright shining disciples who believe, and who are practicing their belief in nearly every Department of the Government, that all the internal affairs of the State are to be run from Washington; that the morals of the people of the State can only be protected by some Congressional enactment; that the food the people consume, shall be examined here to ascertain whether it has any substance in it that might impair the health of the people. It is absolutely contrary to the old-fashioned idea I have had that matters of police regulation, the determination of what laws should be passed to restrict appetite, etc., ought to be left to the State.

Now, if the Territory which we are considering, with three or four hundred thousand American citizens in Oklahoma and a great number in the Indian Territory, is fit at all for State government it ought to be permitted to have the same right that



has been accorded to other States and other Territories about to be admitted, to make its own internal regulations to suit the population embraced within that area. For Congress to say "you may be admitted to statehood, you may have representation in both Houses of Congress, but you are not capable, you can not be trusted with a small detail like this," seems to me to be extraordinary, particularly when you apply it to only a part of the Territory. It is, it seems to me, a restriction which ought not to be imposed if those people are in proper condition to be admitted to statehood.

If I were a resident of that community and a member of the new legislature I should be in favor, as I feel and as I have always acted and voted, of imposing whatever restriction was necessary for the proper government of the people of that State; but I would not like to be hampered with a provision inserted in the act authorizing the creation of the State that I could legislate for one-half of my State, but the remainder of it Congress had provided for. It is a vicious principle.

These remarks are not directed in opposition to the temperance feature of this measure. They are not in opposition to prohibition in a purely Indian reservation. There the Government acts and is the sovereign power, and no other ought to be. It is a different application when you apply it to a State that is coming into the Union. It is a reflection upon the intelligence of the people who are about to come in, if they are to come in. I think it ought not to find its way into this bill.

Mr. BEVERIDGE. I think I have said all I have to say in answer to the Senator from Maryland. It is restricted, as I say, to these spots where the Indians are. It is an unprecedented state of affairs in the Government. I suppose the committee amendment is agreed to.

Mr. BATE. Oh, no.

Mr. BEVERIDGE. If it is not agreed to, we will have a vote. The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the committee.

Mr. MORGAN. There is somewhere in this bill—and I will ask the Senator from Indiana to point it out, as I am not entirely familiar with it—

Mr. BEVERIDGE. Certainly.

Mr. MORGAN. A provision that the State shall, when admitted into the Union, be admitted upon terms of perfect equality with the original States.

The PRESIDING OFFICER. Will the Senator from Alabama kindly permit the amendment that is now under consideration to be disposed of?

Mr. BATE. This has something to do with it.

The PRESIDING OFFICER. It relates to this amendment?

Mr. MORGAN. Have I the language right?

Mr. BEVERIDGE. Practically. I will find it for the Senator.

Mr. MORGAN. If you please; I want to get it.

Mr. BEVERIDGE. I apprehend what the Senator from Alabama is going to say, that if we do make such a restriction the new State can not be on an equality. That is what the Senator has in mind.

Mr. MORGAN. There are some other matters connected with it besides that.

Mr. BEVERIDGE. I was going to point out the language. I call the attention of the Senator from Alabama to what I think is in answer to the point the Senator has in mind, beginning at the bottom of page 1 and continuing on page 2:

That nothing contained in the said constitution shall be construed . . . to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.

In other words, we reserve the right in the bill. It is a harmonious bill.

Mr. MORGAN. I wanted, if there is such a provision in the bill—and I thought I remembered it was in there—to ask the Senator from Indiana to point it out. I refer to a clause which provides that this State or these States, when admitted into the Union, shall be admitted upon terms of perfect equality with the original States of the American Union.

Mr. BATE. It is in there.

Mr. MORGAN. I want to get the language if I can find it. It is hidden away in the multiplicity of this bill so that I can not find it.

The PRESIDING OFFICER. The Chair will state, if the Senator please, that it has intimated that it is embodied in the title of the bill.

Mr. MORGAN. The title?

The PRESIDING OFFICER. It has been intimated to the Chair that such is the case.

Mr. MORGAN. But there is a provision in the bill itself somewhere which sustains the title.

Mr. BATE. It quotes the same language, I think.

Mr. MORGAN. Now, Mr. President, such a provision, I believe, has found its way into the act with respect to every State that has been admitted into the Union since the compact was formed by which the thirteen original States constituted and founded the Union and the Constitution. I take it that is one of the elementary propositions in the admission of a State into the Union—that it shall be on terms of equality with the other States in all respects.

The proposed amendment of the committee creates a great inequality, a startling inequality, between these two States, Oklahoma and Arizona, and all the other States of the American Union upon this subject. I do not think there can be found in any constitution or any ordinance accompanying a constitution which is made irrevocable by law or by the act of admission any provision that intoxicating liquors shall never be sold in a State. I do not think that that is in any American constitution. If it is, it has escaped me entirely, except where the State itself has adopted such a provision.

But there is no provision antecedent to the admission of a State in the Union, as I understand the history of this legislation, which requires an incoming State to adopt an ordinance irrevocably that intoxicating liquors shall never be sold within that State. In doing such an act as that we assume what is confessedly the right of local self-government, and it belongs among the reserved rights of the States and of the people that they shall deal with such a subject according to their own volition, keeping themselves of course within the limits of the Constitution in whatever they do.

Now, here is a general proposition governing the sale of intoxicating liquors in a particular State—in Oklahoma. The provision I am now discussing does not apply to Arizona, but the proposition is that in Oklahoma intoxicating liquors shall never be sold.

Mr. BEVERIDGE. Oh, no.

Mr. MORGAN. Accompanied, however, with a proviso that they may be sold after ten years to the people at large, except Indians, and during the period of ten years they can only be sold for certain specific purposes, which are stated in a very loose and general way in the bill; and if there was never any legislation in that State to carry that proviso into effect it would be a dead letter, because nobody could be indicted under it and no punishment could be inflicted under it, it not being a self-executing constitutional provision.

Mr. BEVERIDGE. Then, if the Senator will permit me, it is perfectly clear on his own statement that from his point of view no injury could result by adopting it.

Mr. MORGAN. We are not doing an entirely foolish and unnecessary thing here, I believe.

Mr. BEVERIDGE. No; but the Senator—

Mr. MORGAN. It is no argument in favor of a provision of this bill that it may be unconstitutional, or it may be irregular, or it may be contrary to all precedents in the United States, but, after all, it can not do any harm. Why do you insert a provision of that sort when it can not do any harm? That is an argument which might do for a debating society when no boy in it was over 10 years old, but it will not do for the Senate of the United States.

Mr. BEVERIDGE. That is the argument suggested by the Senator himself, and even from his own point of view it can do no harm. I do not agree with the Senator's point of view, but I will make answer to the Senator's position from my point of view, and I will give reasons for my point of view. I said from the Senator's own point of view, as stated by the Senator, it could do no harm, not from my own point of view. I am not discussing my own point of view.

Mr. MORGAN. Now, let us see. We are organizing a constitution for a government. This irrevocable ordinance I speak of is as much a part of the organic law of that State, after it comes into the Union, as any part of its constitution. We put in that provision. We ask ourselves the question, Has any other State ever been required to do this? No. Then what becomes of your equality with other States? Oh, that is a trifle; that does not make any difference; it can not do any harm not to give them the benefit of such an expression as that. Is it right in itself to undertake here in Congress to legislate in general terms and phraseology that can not be carried into effect without the assistance of the legislature of the State after it is organized? Is it right for us to make prescription as to what the legislature shall do in the prohibition of the sale of liquors?

The next proposition in the case is that after ten years there

comes a division in the community. One part of the community can deal in liquor as much as the legislature sees proper to permit, and use it as the legislature may see proper to permit, and the other part is entirely prohibited. On what ground is that placed? Race, color, and previous condition—not of servitude, but of capability, of aptitude—in getting drunk and cutting up.

Mr. President, we had better preserve something of respectability in the principles that we array in support of different propositions which we pass through the Senate of the United States. Here we discriminate against Indians because they are Indians. You must not sell liquor to an Indian forever and ever.

Now, there are many of these Indians who are just as capable as any Senator on this floor of taking care of themselves. That is what we are trying to provide for. There are many others, or a part of the others, who are not. So it is with the white people. So, especially, it is with negroes, to whom you can sell whisky under this act; to 20,000 of them, I am told, in the Indian Territory, you may sell whisky under this act ad libitum. If I were going to select a people as between whom I would venture to carry on the whisky business in consideration of the general welfare of the country, one class the Indians and the other the negroes, I would take the Indian every time, if you give him the opportunity to do what he wants to do, before I would take the other class. But perhaps that is a prejudice. If it is a prejudice, Mr. President, it is a prejudice founded on a lifetime of experience of both races.

Who are these Indians who are put under this ban and excepted out of the other community as subjects to be disciplined in the Congress of the United States in the matter of providing for the establishment of a State in the American Union? They are men who by this bill are authorized to vote for delegates to the convention. They are men who are authorized to sit in the convention. They are men who are classified here by tribes as Indians, not by individual merit or capacity or anything like that. We take a whole tribe of Indians and say to any Indian, it makes no difference what his character, condition, or intelligence may be, "Do you belong to one of these Five Civilized Tribes in Oklahoma, or to one of the little fragmentary bands that have been swept out by the besom of destruction, whose destiny we have handled here, and gathered in scraps and fragments in the northeastern part of that Territory?" "Yes, we belong to an Indian tribe." "Step up and vote. We qualify you, and give you power to vote." For voting and electing his delegate, he may be an Indian or he may be a negro or he may be a white man; it makes no difference down there in Oklahoma who he is so he belongs to a tribe or is otherwise permitted under this bill. He takes his seat in the convention, and this affront of the Senate of the United States is put upon him. Before you can ordain a constitution or take another step toward statehood you must put this brand upon your nation, your people, and yourself. You must admit the argument of the Senator from Indiana that you are entirely incapable of self-control when there is any whisky about; but while you are thus entirely incapable of all moral restraint and self-control you are perfectly capable of ordering a constitution for this State to last forever, and to crown it with the beauty and excellence and power of American State sovereignty.

Now, where is the pressure, where is the necessity, where is the invitation, where is the excuse, for the Senate of the United States to put itself into this awkward position, into this dilemma, which will invoke the ludicrous criticism of all civilized people when you put it in this bill?

Then we get back again to the equality of the business. After these States have founded these ordinances and looked around and established a constitution and put these ordinances on the basis of an irrevocable ordinance, they say to themselves: "Well, here we are in the American Union, but we are still underlings; we are still beneath par; we are recognized as to our infirmities by provisions that are put in here which discriminate against us, and we are told to follow along in the drift of events and in the management and control of this Territory with this brand upon us."

I say, Mr. President, it is unworthy of the occasion and the subject. If the men who ordained the Constitution of the United States could have anticipated that an Indian would ever be invited to hold office under this Government or to participate with the great sovereignty of the people in the control of the suffrage of the country—which is the very scepter of sovereignty conferred upon the people—if when our ancestry were forming the Constitution they had ever conceived the idea that it might be possible in the future, they would have put some prohibition on it even stronger than that contained in the preliminary dec-

laration of the Constitution of the United States, and even stronger than that which then recognized the Indians as being separate but dependent nationalities, a people separated from us into nationalities which was just as perfect as the separation of China as a nationality. They would have said that notwithstanding all of the prohibitions that were put upon this country Indians may be admitted into the sovereignty of these States and may be enabled to institute and ordain State governments to fill up the complement of the States that occupy this great and beautiful country. They did not do it. On the contrary, the States commenced to come in one by one. In every one of the acts of admission it is distinctly affirmed that the State is admitted on terms of perfect equality with the original States.

What original State has got that brand of inferiority upon it or that inequality in it? Are we making a State to-day to stand as the equal of all the great sovereignties of this country, or are we making it a tool and implement by which politicians who control certain races of people there can do what they want, and then, after requiring them to have a constitution, can kick them out of respectability by putting a discrimination against them in their constitution? It does not make any difference whether it harms or benefits the community. That is not the question. It does not make any difference whether it can do any harm to the Indians there. That is not the question. Have we no consideration for our own consistency? Have we no regard for principle, practice, precedent, history, in what we are doing in the ordination of an American State? Mr. President, that provision in the bill itself characterizes the whole bill.

But the Senator from Indiana [Mr. BEVERIDGE], whose fruitful mind is always suggesting remedies for difficulties that he may encounter, with great rapidity and plausibility, has cited me to the proviso in the first section of this bill. I think if the Senator had reflected a moment as to the effect of that proviso in connection with the argument I am trying to make he would have seen that he made an unfortunate approach to that argument. I will read it:

*Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished).*

I suppose after they were extinguished the law would not have much to do with them, but "so long as they remain unextinguished." I do not object to that parenthetical phrase, but—

Mr. SPOONER. Will the Senator read the proviso from the beginning?

Mr. MORGAN. Yes.

*Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.*

That proviso repeals every possible guaranty of right of an Indian that may be conferred under the constitution or by the laws of Oklahoma. It repeals the whole of it as if this act had never passed, and as to all of these Indian tribes or no tribes, if he is a mere Indian, the law applies back to the power and jurisdiction of Congress in every possible respect as if the act had never passed. He is an elector, part of the sovereignty, or he may be an officeholder, he may be the governor of Oklahoma, he may be one of the judges put upon the bench under the laws of Oklahoma provided for under this act, and yet the Government of the United States is to retain the same authority over him, his property, and his belongings of every kind that it has now just as if this act had never passed.

Now, I do not wish to criticize a matter of that kind with any objectionable adjectives or adverbs. But, Mr. President, I can not see anything but utter absurdity in it, that an Indian shall be permitted to occupy the double relation of a subject of the United States Congress as he is to-day, liable to be legislated for or against, within or without, in any direction we please, and while we do that at the same time he may be governor, judge of a court, or any other official in the Territory; but he is subject to the powers of Congress just as "if this act had never passed."

Now, that is a legal impossibility, a logical impossibility. It is an impossibility that Congress decrees and will not permit at all. It is an impossibility even in a sound imagination. If there is anything more thoroughly contradictory, more thoroughly self-destructing than that proviso, to which the Senator from Indiana has cited me, I have never seen it written in the form of a law or in anything that pretended to start in the



direction of making a law. I never saw a bill come to this Senate which contained any piece of extravagant folly like that. But that is the theory of this bill. "You are an Indian for the purposes of control by act of Congress as long as you live; you are a citizen of Oklahoma for the purpose of organizing constitutions and irrevocable ordinances; you are an elector in that State; you are entirely capacitated for that office; you have all the rights of a citizen of the United States within a State on the basis and according to the precedents laid down in the original thirteen States." That is said in one breath. In the next breath, "You are nothing but an Indian, just as if this bill had never passed," and we can pass laws of Congress to affect him just as "if this act had never passed."

I never thought that an Indian could be worked in double harness to that extent for the sake of the convenience of gentlemen who want to produce a particular result in this country, which, after all, is nothing more or less, and is not intended to be anything more or less, than an apportionment bill applied to the Senate of the United States. That is all it is.

Mr. SPOONER. I should like to inquire of the Senator whether these Indians are allottees under the general laws of the United States?

Mr. BEVERIDGE. They are.

Mr. SPOONER. Are these Indians allottees under the general laws of the United States?

Mr. MORGAN. Some of them are and some of them are not.

Mr. LONG. They will be in 1906.

Mr. BEVERIDGE. All are now or will be before this act takes effect.

Mr. SPOONER. So they all become citizens of the United States?

Mr. BEVERIDGE. Yes.

Mr. SPOONER. And will be citizens of the State?

Mr. BEVERIDGE. They will be at the time of taking effect of this act.

Mr. MORGAN. I do not go into the topic at all of the citizenship conferred here, because it is not germane exactly to the precise amendment before the Senate.

Mr. SPOONER. I asked for information only.

Mr. MORGAN. I discussed it to some extent the other day, at least to my own satisfaction. There are many candlesticks that will give light on this subject, but I was confining myself to the particular proviso cited by the Senator from Indiana and to the particular question whether or not in the amendment that is proposed by the committee, and in the text to which it is annexed, there is an incongruity and a contradiction which will involve the Senate in terrific criticism, to say the least of it, and would involve the merits and involve the plan and purposes of the whole bill. That is the truth about it. The bill is founded on incorrect principles. I do not allude now, and I have not alluded, to the fact, as I understand it to be a fact—I think I am correct about it—that that principle is not applied to Arizona at all. It applies only to Oklahoma. There are Indians in Arizona galore, and the worst and the lowest and the least intelligent Indians in the United States. So far as I am informed, none of the best Indians of the United States are in Arizona. It is the new State I am talking about, Mexico and Arizona combined.

Why do you not apply this principle to them so that we can have at least equality between the two States you are admitting under the same bill? Is there to be no equality? Are we to make fish of one, flesh of another, and fowl of a third? Are these States to be an aggregate mass of contradictions and incongruities? Can no lawyer in the Senate look over the whole subject and propose any general law that will be applicable to them all alike?

There is no occasion for putting in this provision here. If we must have a liquor provision in there (and I am in favor of a liquor provision, but not on general principles) and Senators see proper to do it, put in the bill a provision authorizing the legislature of that State to pass prohibition laws, and let them go on and do like Maine, pass their prohibition laws and enforce their prohibition laws. But I do not want Congressional compulsion to be brought to bear on that subject. It is a question that Congress has nothing to do with. The drinking and the sale of whisky in States is a domestic question, a question of local self-government.

But, Mr. President, there is no element that can be thought of, from absolute power, arbitrary power, down to the lowest that a local government can exercise, which is not attempted to be provided for in this bill.

Mr. MALLORY. Mr. President, I am heartily in favor of preventing Indians from having liquor sold freely among them, and I would like to vote for this proposed amendment; but it occurs to me that there are one or two questions presented by

it which are of sufficient importance to justify an investigation before we act, and with that purpose in view I should like to ask the attention of the Senator from Indiana to the constitutional provision contained in the tenth article of the amendments with reference to this particular amendment:

#### ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It occurs to me, Mr. President, that there is no power conferred on the Government of the United States to regulate or control or in any way interfere with the sale of liquor within State limits. If that is so, then the proposition that is here presented is, in face of the fact that the right to control the liquor traffic is by that article of the Constitution remitted to the jurisdiction of the States, can this Government in an indirect way, on the admission of a new State into the sisterhood of States, do that which it could not have done originally? In other words, does not that tenth article of the amendments to the Constitution apply to us in admitting new States as much as it applied in the formation of the Government originally? It strikes me, without giving the language any very close investigation, that that is a really serious question. If we have the right to put qualifications now upon proposed States by the exercise of a power which Congress has not, which the Constitution does not vest in Congress, why, Mr. President, hereafter when we admit other States there is no telling what possible restrictions and qualifications Congress may put upon them.

Mr. BEVERIDGE. Does the Senator ask me a question?

Mr. MALLORY. I am merely calling the Senator's attention to this point, because I should like to hear his opinion regarding it.

Mr. BEVERIDGE. I will give it now; but I will ask the Senator a question. Does the Senator think that the restriction which we imposed as a condition of Utah coming into this Union, requiring her to insert in her constitution a provision prohibiting polygamy, was invalid or beyond the power of Congress?

Mr. MALLORY. I have not expressed any opinion on that point.

Mr. BEVERIDGE. If the Senator wants my opinion upon it, I will say that I think it was quite within the power of Congress to make that provision as a condition for admission into the Union, or to provide any other condition it should see fit. I believe this is perhaps the first time the plenary power of Congress to impose conditions on which a State may be admitted has ever been questioned.

Mr. MALLORY. Congress undoubtedly, Mr. President, has a wide latitude of power in prescribing conditions for admission into the Union, but after a State is once in the Union can Congress exercise power by relation back over that State, which power Congress is not authorized to exercise by the Constitution?

Mr. BEVERIDGE. The Senator puts two propositions in the question. I do not intend to argue them; but in the last proposition the Senator practically admits that we have the power to put in any provision concerning such admission. He admits that we have that power.

Mr. MALLORY. I do not admit that at all. I neither admit nor deny it.

Mr. BEVERIDGE. Then, if the Senator does not admit that, our views as to the power of Congress are so wide apart that we can not argue the question. But in that case and in the other case the Congress of the United States can require, as a condition precedent, the insertion of certain provisions into the constitution of the new State before we permit it to come into the Union. After the State is in the Union, I think it has been demonstrated as a practical matter that if it sees fit to go ahead and violate the conditions we can not put the State out.

Mr. MALLORY. That is the point, then, that if the condition is violated Congress has no power to enforce it. If that is so, what is the use of putting such a provision in? If we can not enforce our inhibition, we might as well leave it to the people in one case as in the other. The State would have the right to regulate the matter to suit itself.

But, Mr. President, the power to regulate the sale of liquor within the States is a power that is not in Congress. What we propose to do by this amendment is for a limited time at least to regulate the traffic in liquor within the new State.

Mr. BEVERIDGE. No; though that is the effect of it, I hope. But what we are proposing to do, speaking from a legal point of view, is to require the new State, as a part of its constitution and as a condition of its admission, to put in a certain provision. That is the legal status of what we are trying to do.

Mr. MALLORY. That is what we are trying to do, with the

purpose of effecting that which we can not legally do—that is, control the liquor traffic.

Mr. BEVERIDGE. Of course, if the Senator contends that Congress has not the power to impose a condition upon a proposed State, which shall be a condition of its admission into the Union, then our minds are so far apart that it is not worth while for us to argue the question, for there is no common ground on which we can meet.

Mr. MALLORY. Of course the Senator knows that I do not deny the right of Congress to impose conditions.

Mr. BEVERIDGE. I think the Senator does not.

Mr. MALLORY. But those conditions must be consistent with the power of Congress.

The PRESIDING OFFICER. The pending question is upon the adoption of the amendment proposed by the committee.

Mr. BATE. Let that be again read, Mr. President.

Mr. GALLINGER. Mr. President, as there is probably no great haste with reference to this subject, I wish to say that I was unavoidably kept from the Senate Chamber to-day, as well as yesterday afternoon, and have not had time to read the arguments on this important matter. I have some notions myself in reference to it, and may occupy two or three minutes in debate. I should like to have the amendment passed over for the present.

Mr. BEVERIDGE. I shall be very glad to assent to that.

The PRESIDING OFFICER. The amendment will be passed over.

Mr. BEVERIDGE. The next amendment passed over is on page 12.

The PRESIDING OFFICER. The next amendment which was passed over will be stated.

The SECRETARY. In section 9, page 12, line 20, after the word "sold," insert "at public sale in 160-acre tracts or less."

Mr. BEVERIDGE. If there is no objection to that clause, it may be inserted.

The amendment was agreed to.

Mr. BEVERIDGE. There is a similar amendment on page 13, lines 8 and 9, which was passed over.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In section 10, page 13, line 8, after the word "aforesaid," it is proposed to strike out "when" and insert "if;" and in the same line, after the word "sold," where it occurs the second time, to insert "at public sale in 160-acre tracts or less."

The amendment was agreed to.

Mr. BEVERIDGE. The next amendment passed over was on page 14, lines 16 and 17.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In section 12, page 14, line 16, after the word "State," insert "from public lands of the United States within said State."

The amendment was agreed to.

The next amendment passed over was, in the same section, line 22, before the word "hundred," to strike out "two" and insert "one;" so as to read:

For the benefit of the Agricultural and Mechanical College, 150,000 acres.

The amendment was agreed to.

The next amendment which had been passed over was, in the same section, page 14, line 25, after the word "hundred," to strike out "and fifty;" so as to read:

For the benefit of normal schools, 300,000 acres.

The amendment was agreed to.

Mr. NEWLANDS. I understand that we are now acting upon amendments in sections relating to the public lands, which have been passed over.

Mr. BEVERIDGE. Yes, sir.

Mr. NEWLANDS. And I understand that I can have an opportunity hereafter of presenting amendments to take the place of any of these sections?

Mr. BEVERIDGE. Certainly; that is a right of which the Senator can not be deprived.

The next amendment which had been passed over was, in section 32, page 32, after line 23, to insert:

There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$5,000,000 for the use and benefit of the common schools of said State. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State, and until said State shall enact such laws said appropriation shall not be paid, but said State shall be allowed interest thereon at the rate of 3 per cent per annum, which shall be paid to said State for the use and benefit of its public schools. Said appropriation of \$5,000,000 shall be held inviolate and invested by said State, in trust, for the use and benefit of said schools, and the interest thereon shall be paid quarterly and used exclusively in the support and maintenance of said schools.

Mr. BEVERIDGE. I call the attention of the Senator from Maryland to this amendment.

Mr. GORMAN. I move to amend the amendment by striking out, in lines 7 and 8, on page 33, the words "but said State shall be allowed interest thereon at the rate of 3 per cent per annum, which shall be paid to said State for the use and benefit of its public schools."

The PRESIDING OFFICER. The amendment of the Senator from Maryland to the amendment of the committee will be stated.

The SECRETARY. It is proposed to amend the amendment, after the word "paid," at the end of line 6, by striking out:

But said State shall be allowed interest thereon at the rate of 3 per cent per annum, which shall be paid to said State for the use and benefit of its public schools.

Mr. BEVERIDGE. I am not, I will state to the Senator from Maryland and to the Senate, contentious about this. It is merely a matter of method. It was thought, as I stated yesterday and as I will now state to the Senator from Maryland, that it would be well to do this. It would amount to the payment of interest on this sum for perhaps one year, after which the State would take and refund this debt and pay interest upon it. It would, of course, amount to an additional appropriation; but it is a mere method of appropriation, and if the Senator, who is well learned and experienced in methods of appropriation and finance, thinks the amendment wise, I will accept it.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment as amended.

Mr. BEVERIDGE. I understand the Senator from Maryland has another amendment.

Mr. GORMAN. I wish to move to strike out, in line 12 of the amendment, after the word "schools," the words "and the interest thereon shall be paid quarterly," etc.

Mr. BATE. The same as in the other case.

The PRESIDING OFFICER. The Chair understands the committee accepts the amendment.

Mr. BEVERIDGE. Wait a minute. I want to see what this amendment is.

Mr. GORMAN. It is in line 12, on page 33, after the word "schools," to strike out down to the end of the committee amendment. It properly follows after the amendment just adopted, being, I think, in the same general line.

Mr. BEVERIDGE. I call the attention of the Senator to the fact that perhaps there is a different question here involved.

Mr. GORMAN. I observe that now; and so I withdraw the amendment.

Mr. BEVERIDGE. Yes; it is a different question. Now, let the amendment as amended be agreed to.

The PRESIDING OFFICER. The amendment as amended will be considered as agreed to, in the absence of objection.

Mr. BATE. Does that involve the gift of \$5,000,000?

Mr. BEVERIDGE. Yes; I have accepted the amendment of the Senator from Maryland [Mr. GORMAN].

The PRESIDING OFFICER. The amendment as amended will be considered as agreed to.

Mr. BATE. Excuse me, Mr. President; I want it left open. I do not object to the amendment proposed by the Senator from Maryland, but to the giving of \$5,000,000. That is objectionable, and I want that to be left open so that it can be amended hereafter if desired.

Mr. BEVERIDGE. The Senator can put in his amendment unless he wants to vote on this amendment now, or unless he wants to discuss the amendment now. Let the committee complete its amendments.

Mr. BATE. I want the opportunity to amend the provision hereafter if I deem it necessary.

Mr. BEVERIDGE. All right.

Mr. SPOONER. I should like to make an inquiry of the Senator from Indiana. If he will turn to page 10—

Mr. BEVERIDGE. Will the Senator permit the pending amendment to be first disposed of?

Mr. SPOONER. Certainly.

The PRESIDING OFFICER. The first amendment of the Senator from Maryland to the amendment of the committee has been agreed to. So the pending question is upon agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

Mr. BEVERIDGE. Now I will hear the Senator from Wisconsin.

Mr. BATE. It is understood that there is permission to amend hereafter?

The PRESIDING OFFICER. That will be in order in the Senate.



Mr. SPOONER. I want to ask the Senator from Indiana, who is familiar with all these acts of admission—

Mr. BEVERIDGE. No; I am not.

Mr. SPOONER. I will ask him whether section 7, making the grant of land of the sixteenth and thirty-sixth sections in every township—

Mr. BEVERIDGE. I will call the attention of the Senator from Minnesota [Mr. NELSON] to this.

Mr. SPOONER. Then I will ask the Senator from Minnesota whether section 7, granting the sixteenth and thirty-sixth sections for the use and benefit of the common schools, is as well guarded as kindred provisions in prior acts which have been passed?

Mr. NELSON. What is the Senator's point?

Mr. SPOONER. It occurred to me that the proceeds of these lands upon their sale might be disposed of by the legislature.

Mr. NELSON. I call the attention of the Senator in this connection to the provision of section 9, bearing on this subject, which I think meets his inquiry.

Mr. SPOONER. Section 9?

Mr. NELSON. Section 9, commencing at the bottom of page 12, line 24, referring to land sections 16 and 36.

Mr. SPOONER. That answers my question.

Mr. NELSON. Yes; that answers the Senator's question, I think.

The PRESIDING OFFICER. The Chair is informed that all the amendments proposed by the committee have been agreed to, except the one on page 5, which was passed over at the request of the Senator from New Hampshire [Mr. GALLINGER].

Mr. BATE. Mr. President, the amendment proposing to give \$5,000,000 to each of these proposed new States is objected to, but I do not want to detain the Senate now. I expect to bring it up hereafter.

Mr. BEVERIDGE. Certainly; the Senator will be at liberty to do so. I call the attention of the Senator from Kansas [Mr. LONG] to page 13 of the bill. The Senator from Kansas has an amendment, which I should be glad to have him bring to the attention of the Senate now.

Mr. LONG. I move to strike out the proviso in section 10, page 13, and insert in lieu thereof what I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In section 10, page 13, line 19, it is proposed to strike out:

*Provided, That in case of the sale of said lands under the provisions of sections 9 and 10 of this act the leaseholder does not become the purchaser, all permanent improvements shall be appraised at their fair and reasonable value, the lessee to receive the amount of said appraisement, under such rules and regulations as the legislature may prescribe.*

And insert in lieu thereof the following:

*Provided, That before any of the said lands shall be sold as provided in sections 9 and 10 of this act, the said lands and the improvements thereon shall be appraised by three disinterested appraisers to be designated as the legislature of said State shall prescribe, and the said appraisers shall make a true appraisement of said lands at the actual cash value thereof exclusive of improvements, and shall separately appraise all permanent improvements thereon at their fair and reasonable value, and in case the leaseholder does not become the purchaser, the purchaser at said sale shall, under such rules and regulations as the legislature may prescribe, pay to or for the leaseholder the appraised value of said improvements and to the State the amount bid for the said lands; and at said sale no bid for any tract at less than the appraisement thereof shall be accepted.*

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

Mr. BEVERIDGE. I accept the amendment.

Mr. CLAY. Mr. President, that is an important amendment, and I think it ought to go over until to-morrow morning.

Mr. BATE. I think the amendment should go over.

Mr. BEVERIDGE. Let the Senator from Kansas explain it, if he desires to. So far as the committee is concerned, they accept it.

The PRESIDING OFFICER. The question is on the amendment.

Mr. LONG. Mr. President, the amendment I presented and had read at the desk makes it possible for the proposed new States in the disposal of these lands to receive, in my opinion, a higher price for them than they would receive under the provision that is in the bill as it passed the House. The amendment provides for a separate appraisement of the improvements and of the land. It makes it so that an outside bidder in bidding for the land knows also the amount he will have to pay for the improvements. It is in the interest of securing a higher price for the land than could be obtained under the bill as reported by the committee.

The amendment was agreed to.

Mr. NELSON. I have a couple of amendments suggested by the Secretary of the Interior which I desire to offer. I have examined them and read his communication concerning them,

and I think that the amendments are proper and ought to be made. I ask that the letter of the Secretary may be read in connection with the amendments.

Mr. BEVERIDGE. Will the Senator state on what page of the bill the amendments should come in?

Mr. NELSON. The amendments state on their face. I send the amendments to the desk and ask that the letter of the Secretary of the Interior be first read, as in that way the amendments will be better understood.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,  
Washington, January 5, 1905.

Hon. ALBERT J. BEVERIDGE,  
Chairman Committee on Territories,  
United States Senate.

MY DEAR SENATOR: Upon examination of bill H. R. 14749, "To enable the people of Oklahoma and of the Indian Territory to form a constitution and a State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and a State government and be admitted into the Union on an equal footing with the original States," it does not appear that such provision is made therein as would enable this Department to properly care for reservations already established and national parks and reservations that may hereafter be established.

Should the bill become a law in its present form the Department would experience the same difficulty in the management of the Sulphur Springs Reservation in the Indian Territory, set aside by the act of July 1, 1902 (32 Stats., 641), and section 18 of the act of April 21, 1904 (33 Stats., 220), and the Casa Grande Ruin, in Arizona, set aside by the act of April 2, 1889 (25 Stats., 961), as now obtains in the management of the Yosemite and Sequoia national parks in the State of California.

The lands in these national parks in California were set aside by acts of Congress enacted subsequent to the admission of California as a State. Exclusive jurisdiction thereover has never been ceded to the United States, and consequently the laws of the State govern therein.

The regulations for the government of these parks prescribed pursuant to the acts of October 1, 1890 (26 Stats., 650), and September 25, 1890 (26 Stats., 478), are reasonable, but they are not enforceable in the courts of law, and to secure a proper observance thereof it has been necessary for the Department to prescribe as a penalty for the violation of such regulations the revocation of privileges granted in the parks or ejection from the reservations. Experience has shown this to be unsatisfactory and not conducive to good administrative results.

In the case of the Hot Springs Reservation, at Hot Springs, Ark., when Arkansas was admitted as a State no provision was made in the act for exclusive jurisdiction over the lands in the reservation by the United States. Subsequently many difficulties presented themselves in the enforcement of the regulations for the government of the reservation prescribed by this Department under the act of March 3, 1891 (26 Stats., 842), necessitating the passage of an act by the State recently ceding jurisdiction over the Hot Springs Reservation to the United States.

Several bills have been introduced in Congress looking to the setting aside of lands in the Territories of New Mexico and Arizona, respectively, for park purposes. If these bills become laws subsequent to the passage of H. R. 14749, the same difficulties touching the administration thereof will be presented to the Department as exist in the cases above cited.

To obviate this and to carry out the recommendations of the President relative to the establishment of game preserves, etc., I have the honor to submit herewith for your consideration amendments to section 7 on page 10 of the bill and to section 24 on page 28 of the bill. These amendments provide for the giving of exclusive jurisdiction to the United States over the Sulphur Springs Reservation, in the Indian Territory, the Casa Grande ruin, in Arizona, and all national parks, game preserves, or other reservations for the preservation of objects of archaeological or ethnological interest hereafter established.

Very respectfully,

E. A. HITCHCOCK, Secretary.

The PRESIDING OFFICER. The first amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 11, after line 13, it is proposed to insert:

*Provided, That nothing in this act contained shall repeal or affect any act of Congress relating to the Sulphur Springs Reservation as now defined or as may be hereafter defined or extended or the power of the United States over it or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archaeological or ethnological interest; and nothing contained in this act shall interfere with the rights and ownership of the United States in any land hereafter set aside by Congress as national park, game preserve, or other reservation, or in the said Sulphur Springs Reservation as it now is or may be hereafter defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said Sulphur Springs Reservation or national parks, game preserves, and other reservations hereafter established by law of civil and criminal processes lawfully issued by the authority of said State, and said State shall not be entitled to select indemnity school lands for the thirteenth, sixteenth, thirty-third, and thirty-sixth sections that may be embraced within the metes and bounds of the national park, game preserve, and other reservation or the said Sulphur Springs Reservation as now defined or may be hereafter defined.*

Mr. BEVERIDGE. From the explanation given in the letter of the Secretary of the Interior I think everybody will agree that that amendment is a proper one to be made, and the committee accepts it.

The amendment was agreed to.



The PRESIDING OFFICER. The second amendment of the Senator from Minnesota [Mr. NELSON] will be stated.

The SECRETARY. On page 29, at the end of section 24, it is proposed to insert:

*Provided, That nothing in this act contained shall repeal or affect any act of Congress relating to the Casa Grande Ruin as now defined or as may be hereafter defined or extended or the power of the United States over it or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archaeological or ethnological interest; and nothing contained in this act shall interfere with the rights and ownership of the United States in any land hereafter set aside by Congress as national park, game preserve, or other reservation, or in the said Casa Grande Ruin as it now is or may be hereafter defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said Casa Grande Ruin or national parks, game preserves, and other reservations hereafter established by law of civil and criminal processes lawfully issued by the authority of said State, and said State shall not be entitled to select indemnity school lands for the thirteenth, sixteenth, thirty-third, and thirty-sixth sections that may be embraced within the metes and bounds of the national park, game preserve, and other reservation, or the said Casa Grande Ruin as now defined or may be hereafter defined.*

Mr. BEVERIDGE. That is clearly proper. I accept it with the proviso.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. FORAKER. I desire to inquire of the Senator having the bill in charge whether it is agreeable to him that I should now offer an amendment?

Mr. BEVERIDGE. Certainly; that the Senator may offer it—

Mr. FORAKER. I did not know whether the Senator was through with the committee amendments.

Mr. BEVERIDGE. If there is no one who has an amendment to offer which the committee will accept, it is perfectly agreeable to me to have the Senator from Ohio offer his amendment.

Mr. FORAKER. I have been waiting simply that the committee amendments might be disposed of.

If it is in order, I move to amend by inserting on page 26, line 24, after the word "question," the words "in each of said Territories." It is in line 24, according to the print I have before me now.

Mr. BEVERIDGE. I beg the Senator's pardon. My attention was diverted. What page is it?

Mr. FORAKER. I may state that I seem to have a different print before me.

Mr. BEVERIDGE. Will the clerks please provide the Senator from Ohio with the print of January 10?

The SECRETARY. On page 26, line 24, after the word "question," it is proposed to insert the words "in each of said Territories."

Mr. GORMAN. Now read the paragraph as it will read if amended.

The SECRETARY. On page 26, line 24, after the word "question," it is proposed to insert "in each of said Territories;" so that if amended it will read:

And if a majority of the legal votes cast on that question in each of said Territories shall be for the constitution the said canvassing board shall certify the result to the President, etc.

Mr. CULLOM. I wish to inquire of the Senator from Ohio and the Senator in charge of the bill whether it would be agreeable to them temporarily to lay aside the pending bill in order that we may have an executive session this evening.

Mr. BEVERIDGE. It is entirely agreeable to me if it is agreeable to the Senator from Ohio.

Mr. FORAKER. I thought the Senator having the bill in charge would accept the amendment I have just offered.

Mr. BEVERIDGE. I do not feel like accepting it this afternoon without further consideration.

Mr. FORAKER. If not I am willing to wait until to-morrow morning for a determination of the matter. But I wish to say to the Senator from Indiana that I shall desire an opportunity before the bill is disposed of to make remarks in support of the amendment.

Mr. BEVERIDGE. I prefer not to accept it this evening.

Mr. CULLOM. With the leave of the Senator from Indiana, I will move that the Senate proceed to the consideration of executive business.

Mr. BEVERIDGE. Certainly.

Mr. CLAY. Will the Senator from Illinois allow me to make a request?

The PRESIDING OFFICER. Does the Senator from Illinois withdraw the motion in order that the Senator from Georgia may submit a request?

Mr. CULLOM. I do.

#### SUPPRESSION OF LOTTERY TRAFFIC.

Mr. CLAY. Mr. President, there was before the Senate this morning the bill (S. 2514) to amend the act of March 2, 1895,

entitled "An act for the suppression of lottery traffic through national and interstate commerce and the postal service subject to the jurisdiction and laws of the United States."

The bill went over until to-morrow. I propose to offer certain amendments to the bill, material amendments, and I ask that the bill and amendments be printed.

Mr. LODGE. It is a bill to which there is no objection, but it was so badly drawn that it needs verbal amendments.

The PRESIDING OFFICER. The Senator from Georgia asks for a reprint of the bill with the amendments which he offers.

Mr. CLAY. I will send to the desk the bill as it will appear if amended.

The PRESIDING OFFICER. Without objection, the bill will be reprinted with the amendments proposed by the Senator from Georgia.

#### EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twelve minutes spent in executive session the doors were reopened, and (at 4 o'clock and 27 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 12, 1905, at 12 o'clock meridian.

#### NOMINATIONS.

*Executive nominations received by the Senate January 11, 1905.*

##### MARSHAL.

Thomas Cader Powell, of Oregon, to be United States marshal for the district of Alaska, division No. 2, vice Frank H. Richards, removed.

##### INDIAN INSPECTOR.

J. George Wright, of Illinois, to be an Indian inspector, his term having expired March 27, 1904. (Reappointment.)

##### POSTMASTERS.

##### ARKANSAS.

Joseph A. Foster to be postmaster at Paris, in the county of Logan and State of Arkansas. Office became Presidential January 1, 1905.

Charles H. Tisdale to be postmaster at Hazen, in the county of Prairie and State of Arkansas. Office became Presidential January 1, 1905.

M. P. Westbrook to be postmaster at Benton, in the county of Saline and State of Arkansas. Office became Presidential January 1, 1905.

##### DELAWARE.

Edward F. Prettyman to be postmaster at Seaford, in the county of Sussex and State of Delaware, in place of Jesse T. Sharpe. Incumbent's commission expired December 20, 1904.

##### GEORGIA.

Beverly B. Hayes to be postmaster at Wrightsville, in the county of Johnson and State of Georgia. Office became Presidential January 1, 1904.

##### IOWA.

William C. Snyder to be postmaster at Lake City, in the county of Calhoun and State of Iowa, in place of Josiah D. McVay, deceased.

##### LOUISIANA.

Edson E. Burnham to be postmaster at Amite, in the parish of Tangipahoa and State of Louisiana, in place of Edson E. Burnham. Incumbent's commission expired December 10, 1904.

William M. Rous to be postmaster at Lake Providence, in the parish of East Carroll and State of Louisiana, in place of Susie E. Taylor. Incumbent's commission expired December 20, 1904.

##### MINNESOTA.

Henry K. White to be postmaster at Alexandria, in the county of Douglas and State of Minnesota, in place of Charles S. Mitchell, resigned.

##### MISSOURI.

Alansan H. Dent to be postmaster at Osceola, in the county of St. Clair and State of Missouri, in place of Mathew J. Orr, removed.

William E. Templeton to be postmaster at Excelsior Springs, in the county of Clay and State of Missouri, in place of William E. Templeton. Incumbent's commission expired December 20, 1904.

##### NEW JERSEY.

James M. Bogert to be postmaster at Westwood, in the county of Bergen and State of New Jersey. Office became Presidential October 1, 1904.

##### NEW YORK.

John M. Gilmour to be postmaster at Morristown, in the county of St. Lawrence and State of New York, in place of

George M. Nicol. Incumbent's commission expired December 10, 1904.

J. Johnson Ray to be postmaster at Norwich, in the county of Chenango and State of New York, in place of James H. Throop. Incumbent's commission expired May 16, 1904.

## OHIO.

William W. Dennison to be postmaster at Batavia, in the county of Clermont and State of Ohio, in place of William H. Baum, removed.

Henry H. Dibble to be postmaster at Canal Winchester, in the county of Franklin and State of Ohio. Office became Presidential January 1, 1905.

George R. Garver to be postmaster at Strasburg, in the county of Tuscarawas and State of Ohio. Office became Presidential January 1, 1903.

Peter Housel to be postmaster at Shreve, in the county of Wayne and State of Ohio, in place of Peter Housel. Incumbent's commission expired May 4, 1904.

Thomas B. Van Horne to be postmaster at Franklin, in the county of Warren and State of Ohio, in place of Joseph B. Woodward. Incumbent's commission expired May 28, 1904.

## OREGON.

George M. Richey to be postmaster at La Grande, in the county of Union and State of Oregon, in place of John C. Ardrey, resigned.

## PENNSYLVANIA.

John Francies to be postmaster at Allegheny, in the county of Allegheny and State of Pennsylvania, in place of James A. Grier, removed.

## SOUTH CAROLINA.

Ida A. Calhoun to be postmaster at Clemson College, in the county of Oconee and State of South Carolina, in place of Rebecca C. Calhoun, removed.

James E. Horton to be postmaster at Belton, in the county of Anderson and State of South Carolina. Office became Presidential January 1, 1905.

## TENNESSEE.

Daniel M. Nobles to be postmaster at Paris, in the county of Henry and State of Tennessee, in place of Edward H. Blanton, removed.

## VERMONT.

F. Henry Foss to be postmaster at Vergennes, in the county of Addison and State of Vermont, in place of F. Henry Foss. Incumbent's commission expired March 9, 1902.

## WISCONSIN.

Laurel G. Andrews to be postmaster at Mukwonago, in the county of Waukesha and State of Wisconsin. Office became Presidential October 1, 1904.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate January 11, 1905.*

## CONSUL.

Howard D. Van Sant, of New Jersey, to be consul of the United States at Guelph, Ontario, Canada.

## CHIEF OF BUREAU OF MANUFACTURES.

J. Hampton Moore, of Pennsylvania, to be Chief of Bureau of Manufactures, Department of Commerce and Labor.

## COLLECTOR OF CUSTOMS.

Frederick S. Stratton, of California, to be collector of customs for the district of San Francisco, in the State of California.

## NAVAL OFFICER OF CUSTOMS.

Walter T. Merrick, of Pennsylvania, to be naval officer of customs in the district of Philadelphia, in the State of Pennsylvania.

## POSTMASTERS.

## ARIZONA.

L. D. Redfield to be postmaster at Benson, in the county of Cochise and Territory of Arizona.

## CALIFORNIA.

William Collins to be postmaster at Mojave, in the county of Kern and State of California.

## ILLINOIS.

Eva J. Harrison to be postmaster at Johnston City, in the county of Williamson and State of Illinois.

Holly C. Marchildson to be postmaster at Thebes, in the county of Alexander and State of Illinois.

George M. Thompson to be postmaster at Bement, in the county of Piatt and State of Illinois.

## INDIANA.

John M. Atkins to be postmaster at Jasonville, in the county of Greene and State of Indiana.

## MISSISSIPPI.

Robert C. Sharbrough to be postmaster at McHenry, in the county of Harrison and State of Mississippi.

Alexander Yates to be postmaster at Utica, in the county of Hinds and State of Mississippi.

## NEW JERSEY.

Joshua L. Allen to be postmaster at Pennington, in the county of Mercer and State of New Jersey.

Farley F. Holcombe to be postmaster at Hopewell, in the county of Mercer and State of New Jersey.

Shepherd S. Hudson to be postmaster at Mays Landing, in the county of Atlantic and State of New Jersey.

## NEW YORK.

George Bouse to be postmaster at Bay Side, in the county of Queens and State of New York.

Frederic J. Merriman to be postmaster at Madrid, in the county of St. Lawrence and State of New York.

## NORTH CAROLINA.

Erwin Q. Houston to be postmaster at Davidson, in the county of Mecklenburg and State of North Carolina.

Eugene C. Kapp to be postmaster at Mount Airy, in the county of Surry and State of North Carolina.

Robert P. Reinhardt to be postmaster at Newton, in the county of Catawba and State of North Carolina.

Jesse F. Walsh to be postmaster at Elkin, in the county of Surry and State of North Carolina.

## OHIO.

Louis G. Bidwell to be postmaster at Kinsman, in the county of Trumbull and State of Ohio.

William Cline to be postmaster at Arcanum, in the county of Darke and State of Ohio.

Peter Cranker to be postmaster at West Toledo, in the county of Lucas and State of Ohio.

Willis E. Payne to be postmaster at Ashville, in the county of Pickaway and State of Ohio.

Granville W. Springer to be postmaster at Crooksville, in the county of Perry and State of Ohio.

Alva G. Sutton to be postmaster at Attica, in the county of Seneca and State of Ohio.

Ford H. Laning to be postmaster at Norwalk, in the county of Huron and State of Ohio.

Charles D. Wightman to be postmaster at Medina, in the county of Medina and State of Ohio.

## WYOMING.

Newton H. Brown to be postmaster at Lander, in the county of Fremont and State of Wyoming.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 11, 1905.

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

BRIDGE ACROSS THE MISSISSIPPI RIVER, MINNEAPOLIS, MINN.

By unanimous consent, the bill (H. R. 16282) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River was laid on the table, a similar Senate bill having been passed yesterday.

## COMMITTEE ON INAUGURAL CEREMONIES.

The SPEAKER announced the appointment of the following committee on the part of the House on inauguration ceremonies:

Mr. DALZELL, Mr. CRUMPACKER, Mr. WILLIAMS of Mississippi.

## ARMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 17473) making appropriations for the support of the Army for the fiscal year ending June 30, 1906, and pending that motion I would ask the gentleman from Virginia [Mr. HAY] if we can not agree upon some limit to general debate.

Mr. HAY. We would like one hour upon this side.

Mr. HULL. Then, Mr. Speaker, I would ask that three hours, or so much of that time as may be necessary, be agreed upon as the time for general debate, one half of that time to be controlled by myself and the other half to be controlled by the gentleman from Virginia [Mr. HAY].

The SPEAKER. The gentleman from Iowa asks unanimous consent that the general debate may be closed within three hours, one-half of the time to be under the control of the gentle-